GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE

UNREPEALED GENERAL ACTS

OF

THE INDIAN LEGISLATURE: WITH CHRONOLOGICAL TABLE AND NOTES.

From 1924 to 1927, both inclusive.

VOL. VIII.

FIFTH EDITION.



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[1]To come into force when notified.
[2]The main provisions of the Act are to come into force when notified.

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THE

UNREPEALED GENERAL ACTS

OF THE

INDIAN LEGISLATURE.

ACT No I OF 1924 [1]

[*16th February, 1924*]

An Act to amend the Indian Cotton Cess Act, 1923, for certain purposes

XIV of 1923 WHEREAS it is expedient to amend the Indian Cotton Cess Act, 1923, for certain purposes hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Indian Cotton Cess (Amendment) Act, 1924 Short title

XIV of 1923 **2.** To clause (*a*) of section 2 of the Indian Cotton Cess Act, 1923 (hereinafter referred to as the said Act), after the word " situated " the following shall be added, namely — Amendment of section 2, Act XIV of 1923

" or any other officer appointed by the Local Government to perform the duties of a Collector under this Act "

3. Section 3 of the said Act shall be re numbered as sub section (*1*) of section 3, and to that section the following sub-section shall be added, namely — Amendment of section 3, Act XIV of 1923

" (*2*) The Governor General in Council may, by notification in the Gazette of India, direct that the cess referred to in sub-section (*1*) shall be levied and collected on all cotton produced in India and exported by land from British India to any foreign territory outside India which may be specified in the notification "

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt V, p 19

Amendment of section 8, Act XIV of 1923.

4. Section 8 of the said Act shall be re-numbered as sub-section (*1*) of section 8, and to that section the following sub-section shall be added, namely:—

"(*2*) In respect of cotton exported by land on which the cess is leviable, the cess shall be assessed and levied by such authorities and in such manner as may be prescribed."

Amendment of section 15, Act XIV of 1923.

5. In clause (*r*) of sub-section (*2*) of section 15 of the said Act, after the words "by sea" the words "or by land" shall be inserted.

THE CANTONMENTS ACT, 1924.

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ACT No. II OF 1924.[1]

[*16th February, 1924.*]

An Act to consolidate and amend the law relating to the administration of cantonments.

WHEREAS it is expedient to consolidate and amend the law relating to the administration of cantonments; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Cantonments Act, 1924.

(*2*) It extends to the whole of British India, including British Baluchistan.

(*3*) The Governor General in Council may, by notification in the Gazette of India, direct that this Act, or any provisions thereof which he may specify, shall come into force on such date[2] as he may appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "Assistant Health Officer" means the medical officer appointed by the [Officer Commanding-in-Chief, the Command,][3] to be the Assistant Health Officer for a cantonment;

(ii) "Board" means a Cantonment Board constituted under this Act;

(iii) "Brigade area" means one of the brigade areas, whether occupied by a brigade or not, into which India is for military purposes for the time being divided, and includes for all or any of the purposes of this Act any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a brigade area for such purpose or purposes;

(iv) "building" means any house, hut, outhouse, shed, stable or other roofed structure, for whatever purpose or of whatever material constructed, or any part thereof, and includes a well, but does not include a tent or other portable and temporary shelter;

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[1] For Statement of Objects and Reasons, see Gazette of India, 1923, Pt. V, p. 2[illegible], and for Report of Select Committee, see *ibid*, p. 270.

[2] This Act came into force on the 1st day of May 1924, see [illegible], Vol. V, p. [illegible]

[3] These words were substituted by s. 2 of the Cantonments (Amendment) Act, [illegible] (35 of 192[illegible]).

(Chapter I.—Preliminary.)

(v) "Cantonment Authority" means a Board or, in the case of a cantonment where a Board has not been constituted or has ceased to exist, the [1][Officer Commanding the station];

(vi) "casual election" means an election held to fill a casual vacancy;

(vii) "casual vacancy" means a vacancy occurring otherwise than by efflux of time in the office of an elected member of a Board;

(viii) "Command" means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Command for all or any of the purposes of this Act;

(ix) "[1][Officer Commanding the station]" means the military officer for the time being in command of the forces in a cantonment, or, if that officer is the Officer Commanding the District, the military officer who would be in command of those forces in the absence of the Officer Commanding the District;

(x) "dairy" includes any farm, cattle shed, milk store, milk shop or other place from which milk is supplied or in which milk is kept for purposes of sale or is manufactured for sale into butter, ghee, cheese or curds, and, in relation to a dairyman who does not occupy any premises for the sale of milk includes any place in which he keeps the vessels used by him for the storage or sale of milk;

(xi) "dairyman" includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or is intended to be offered for sale for human consumption, and any purveyor of milk and any occupier of a dairy;

(xii) "Executive Engineer" means the Public Works officer of that grade, or the [2][officer of the Military Engineer Services] of the corresponding grade, having charge of the military works in a cantonment and includes the officer of whatever grade in immediate executive engineering charge of a cantonment;

(xiii) "Executive Officer" means the person appointed under this Act to be the Executive Officer of a cantonment;

(xiv) "Health Officer" means the senior executive medical officer in military employ on duty in a cantonment;

[1] These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

[2] These words were substituted by s. 2, *ibid*.

(Chapter I.—Preliminary.)

(xv) "hill cantonment" means any cantonment declared by the Local Government, by notification in the local official Gazette, to be a hill cantonment for the purposes of this Act;

(xvi) "hut" means any building, no material portion of which above the plinth level is constructed of masonry or of squared timber framing or of iron framing:

(xvii) "infectious or contagious disease" means cholera, leprosy, enteric fever, small-pox, tuberculosis, diphtheria, plague, influenza, venereal disease, and any other epidemic, endemic or infectious disease which the Local Government may, by notification[1] in the local official Gazette, declare to be an infectious or contagious disease for the purposes of this Act;

(xviii) "inhabitant", in relation to a cantonment, or local area, means any person ordinarily residing or carrying on business or owning or occupying immoveable property therein, and in case of a dispute means any person declared by the District Magistrate to be an inhabitant;

(xix) "intoxicating drug" means opium, ganja, bhang, charas and any preparation or admixture thereof, and includes any other intoxicating substance, or liquid which the Local Government [2]* * may, by notification[3] in the local official Gazette, declare to be an intoxicating drug for the purposes of this Act;

(xx) "market" includes any place where persons assemble for the purpose of selling meat, fish, fruit, vegetables, livestock or any other article of food:

(xxi) "military officer" means—

(a) a person who, being an officer within the meaning of the Army Act or the Indian Army Act, 1911, or the Air Force Act, is commissioned and in pay as an officer doing military or air force duty with His Majesty's military or air forces, or is an officer doing such duty in any arm, branch or part of those forces; or 44 & 45 Vict., c. 58. VIII of 1911.

(b) a person doing military or air force duty as a warrant officer with either of those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act or the Indian Army Act, 1911, or the Air Force Act; 44 & 45 Vict., c. 58. VIII of 1911.

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[1] For such Notification by the [illegible] Pt. II, p. 73[illegible]

[2] [illegible]

[3] For such Notification by the [illegible] Pt. II, p. 5[illegible]

(Chapter I.—Preliminary.)

(xxii) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing, or which is or may be dangerous to life or injurious to health or property;

(xxiii) "occupier" includes an owner in occupation of, or otherwise using, his own land or building,

(xxiv) "Officer Commanding the District" means the Officer Commanding any one of the districts into which India is for military purposes for the time being divided, or any brigade area which does not form part of any such district, or any area which the Governor General in Council may, by notification in the Gazette of India, declare to be such a district for all or any of the purposes of this Act,

(xxv) "ordinary election" means an election held to fill a vacancy in the office of an elected member of a Board arising by efflux of time,

(xxvi) "owner" includes any person who is receiving or is entitled to receive the rent of any building or land whether on his own account or on behalf of himself and others or an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant,

(xxvii) "party wall" means a wall forming part of a building and used or constructed to be used for the support or separation of adjoining buildings belonging to different owners, or constructed or adapted to be occupied by different persons,

(xxviii) "private market" means a market which is not maintained by a Cantonment Authority and which is licensed by a Cantonment Authority under the provisions of this Act,

(xxix) "private slaughter-house" means a slaughter-house which is not maintained by a Cantonment Authority and which is licensed by a Cantonment Authority under the provisions of this Act,

(xxx) "public market" means a market maintained by a Cantonment Authority,

(xxxi) "public place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not;

(xxxii) "public slaughter-house" means a slaughter-house maintained by a Cantonment Authority,

(xxxiii) "shed" means a slight or temporary structure for shade or shelter,

(xxxiv) "slaughter-house" means any place ordinarily used for the slaughter of animals for the purpose of selling the flesh thereof for human consumption;

(xxxv) " soldier " means a person who is a soldier or airman within the meaning of the Army Act or the Air Force Act, or is subject to the Indian Army Act, 1911, and who is not a military officer; 44 a[nd] Vict. VIII 1911

(xxxvi) " spirituous liquor " means any fermented liquor, any wine, or any alcoholic liquid obtained by distillation or the sap of any kind of palm tree, and includes any other liquid containing alcohol which the Local Government [1] * * * may, by notification in the local official Gazette, declare to be a spirituous liquor for the purposes of this Act;

(xxxvii) " street " includes any way, road, lane, square, court, alley, passage or open space in a cantonment, whether a thoroughfare or not and whether built upon or not, over which the public have a right-of-way and also the road-way or foot-way over any bridge or causeway;

(xxxviii) "vehicle" means a wheeled conveyance of any description which is capable of being used on a street, and includes a motor-car, motor lorry, motor-omnibus, cart, locomotive, tram-car, hand-cart, truck, motor-cycle, bicycle, tricycle and rickshaw; and

(xxxix) " water-work " includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water-trucks, sluices, mains, pipes, culverts, hydrants, stand-pipes, and conduits, and all machinery, lands, buildings, bridges and things, used for, or intended for the purpose of, supplying water to a cantonment.

CHAPTER II.

DEFINITION AND DELIMITATION OF CANTONMENTS.

[De]finition of [c]antonments.

3. *(1)* The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare any place or places in which any part of His Majesty's regular forces or regular air force is quartered or which, being in the vicinity of any such place or places, is or are required for the service of such forces to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and with the like sanction, may, by a like notification,[2] declare that any cantonment shall cease to be a cantonment.

[1] [illegible] (7 of 19[illegible]).

[2] [illegible]

(Chapter II.—Definition and Delimitation of Cantonments.)

(2) The Local Government, with the like sanction, may, by a like notification, define the limits of any cantonment for the aforesaid purposes.

Alteration of limits of cantonments.

4. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare its intention to include within a cantonment any local area situated in the [1]* vicinity thereof or to exclude from a cantonment any local area comprised therein.

(2) Any inhabitant of a cantonment or local area in respect of which a notification has been published under sub-section (1) may, within six weeks from the date of the notification, submit in writing to the Local Government through the Officer Commanding-in-Chief the Command, an objection to the notification, and the Local Government shall take such objection into consideration.

(3) On the expiry of six weeks from the date of the notification, the Local Government may, with the previous sanction of the Governor General in Council, after considering the objections, if any, which have been submitted under sub-section (2), by notification in the local official Gazette, include the local area in respect of which the notification was published under sub-section (1) or any part thereof in the cantonment or, as the case may be, exclude such area or any part thereof from the cantonment.

The effect of including area in cantonment.

5. When, by a notification under section 4, any local area is included in a cantonment, such area shall thereupon become subject to this Act and to all other enactments for the time being in force throughout the cantonment and to all notifications, rules, regulations, bye-laws, orders and directions issued or made thereunder.

Disposal of cantonment fund when area ceases to be a cantonment.

6. (1) When, by a notification under section 3, any cantonment ceases to be a cantonment and the local area comprised therein is immediately placed under the control of a local authority, the balance of the cantonment fund and other property vesting in the Cantonment Authority shall vest in such local authority, and the liabilities of the Cantonment Authority shall be transferred to such local authority.

(2) When in like manner any cantonment ceases to be a cantonment and the local area comprised therein is not immediately placed under the control of a local authority, the balance of the cantonment fund and other property vesting in the Cantonment Authority shall vest in His Majesty, and the liabilities of the Cantonment Authority shall be transferred to the Secretary of State in Council.

Disposal of cantonment fund when area ceases to be included in a cantonment.

7. (1) When, by a notification under section 4, any local area forming part of a cantonment ceases to be under the control of a particular Cantonment Authority and is immediately placed under the control of

[1] The word "immediate" was omitted by s. 2 of the Cantonments (Amendment) Act, 1927 (25 of 1927).

some other local authority, such portion of the cantonment fund and other property vesting in the Cantonment Authority, and such portion of the liabilities of the Cantonment Authority, as the Governor General in Council may, by general or special order, direct, shall be transferred to that other local authority.

(2) When, in like manner, any local area forming part of a cantonment ceases to be under the control of a particular Cantonment Authority and is not immediately placed under the control of some other local authority, such portion of the cantonment fund and other property vesting in the Cantonment Authority shall vest in His Majesty, and such portion of the liabilities of the Cantonment Authority shall be transferred to the Secretary of State in Council, as the Governor General in Council may, by general or special order, direct.

Application of funds and property transferred under sections 6 and 7

8. Any cantonment fund or portion of a cantonment fund or other property of a Cantonment Authority vesting in His Majesty under the provisions of section 6 or section 7 shall be applied in the first place to satisfy any liabilities of the Cantonment Authority transferred under such provisions to the Secretary of State in Council, and in the second place for the benefit of the inhabitants of the local area which has ceased to be a cantonment or, as the case may be, part of a cantonment.

Limitation of operation of Act.

9. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, exclude from the operation of any part of this Act the whole or any part of a cantonment, or direct that any provision of this Act shall, in the case of any cantonment specified in the notification in which there is no Board, apply with such modifications as may be so specified.

CHAPTER III.

CANTONMENT AUTHORITIES AND CANTONMENT BOARDS.

Cantonment Authority and Executive Officer.

10. *(1)* For every cantonment beyond the limits of a Presidency-town there shall be a Cantonment Authority and an Executive Officer.

(2) Where a cantonment is situated within the limits of a Presidency-town, the functions assigned to any authority by or under this Act shall, subject to the provisions of any other law for the time being in force, be discharged by such authority as the Local Government may, by notification in the local official Gazette, appoint in this behalf.

Governor General in Council to decide

11. The Governor General in Council may, by notification in the Gazette of India, order in respect of any cantonment that [illegible]

[illegible]

ment Board shall be constituted therein and may, by a like notification, order that any Board so constituted shall cease to exist

whether Cantonment Board shall be constituted

Incorporation of Cantonment Authority

12 (1) Every Board shall, by the name of the Board of the place by reference to which the cantonment is known, be a body corporate having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract and shall by the said name sue and be sued

(2) In the case of any cantonment where there is no Board the Cantonment Authority shall be a corporation sole by the name of the Cantonment Authority of the place by reference to which the cantonment is known and as such Cantonment Authority shall have perpetual succession and an official seal with power to acquire and hold property both moveable and immoveable and to contract and shall by the said name sue and be sued

Appointment of Executive Officer

13 The Executive Officer of every cantonment shall be appointed by the Governor General in Council or by such person as the Governor General in Council may authorise in this behalf and in a cantonment where there is a Board shall be the Secretary but shall not be a member, thereof

Provided that in the case of any cantonment where there is a Board the Governor General in Council may direct that the Executive Officer may be appointed by the Board subject to such conditions as the Governor General in Council may impose

Constitution of Cantonment Board

14 (1) Every Board shall consist of the following members, namely —

(a) the [1][Officer Commanding the station],

(b) a Magistrate of the first class nominated by the District Magistrate,

(c) the Health Officer,

(d) the Executive Engineer,

(e) such military officers not exceeding four in number as may be nominated [2][by name] by the [1][Officer Commanding the station] by order in writing

Provided that the [1][Officer Commanding the station] may if he thinks fit with the sanction of the [3][Officer Commanding-in Chief, the Command] nominate in place of any military

1 These words were substituted by s 14 of the Cantonments (Amendment) Act 1925 (7 of 1925)

2 These words were inserted by s 3 ibid

3 These words were substituted by s 2 of the Cantonments (Amendment) Act,1936 (35 of 1936)

some other local authority, such portion of the cantonment fund and other property vesting in the Cantonment Authority, and such portion of the liabilities of the Cantonment Authority, as the Governor General in Council may, by general or special order, direct, shall be transferred to that other local authority.

(2) When, in like manner, any local area forming part of a cantonment ceases to be under the control of a particular Cantonment Authority and is not immediately placed under the control of some other local authority, such portion of the cantonment fund and other property vesting in the Cantonment Authority shall vest in His Majesty, and such portion of the liabilities of the Cantonment Authority shall be transferred to the Secretary of State in Council, as the Governor General in Council may, by general or special order, direct.

Application of funds and property transferred under sections 6 and 7

8. Any cantonment fund or portion of a cantonment fund or other property of a Cantonment Authority vesting in His Majesty under the provisions of section 6 or section 7 shall be applied in the first place to satisfy any liabilities of the Cantonment Authority transferred under such provisions to the Secretary of State in Council, and in the second place for the benefit of the inhabitants of the local area which has ceased to be a cantonment or, as the case may be, part of a cantonment.

Limitation of operation of Act.

9. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, exclude from the operation of any part of this Act the whole or any part of a cantonment, or direct that any provision of this Act shall, in the case of any cantonment specified in the notification in which there is no Board, apply with such modifications as may be so specified.

CHAPTER III.

CANTONMENT AUTHORITIES AND CANTONMENT BOARDS.

Cantonment Authority and Executive Officer.

10. (1) For every cantonment beyond the limits of a Presidency-town there shall be a Cantonment Authority and an Executive Officer.

(2) Where a cantonment is situated within the limits of a Presidency-town, the functions assigned to any authority by or under this Act shall, subject to the provisions of any other law for the time being in force, be discharged by such authority as the Local Government may, by notification in the local official Gazette, appoint in this behalf.

[illegible]

11. The Governor General in Council may, by [illegible] Government of India, order in respect of any cantonment [illegible]

[illegible]

ment Board shall be constituted therein, and may, by a like notification, order that any Board so constituted shall cease to exist. Whether Cantonment Board shall be constituted

12. (*1*) Every Board shall, by the name of the Board of the place by reference to which the cantonment is known, be a body corporate having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract and shall, by the said name, sue and be sued Incorporation of Cantonment Authority.

(*2*) In the case of any cantonment where there is no Board, the Cantonment Authority shall be a corporation sole by the name of the Cantonment Authority of the place by reference to which the cantonment is known, and as such Cantonment Authority shall have perpetual succession and an official seal with power to acquire and hold property both moveable and immoveable and to contract and shall, by the said name, sue and be sued

13. The Executive Officer of every cantonment shall be appointed by the Governor General in Council or by such person as the Governor General in Council may authorise in this behalf, and, in a cantonment where there is a Board, shall be the Secretary, but shall not be a member, thereof Appointment of Executive Officer

Provided that, in the case of any cantonment where there is a Board, the Governor General in Council may direct that the Executive Officer may be appointed by the Board subject to such conditions as the Governor General in Council may impose

14. (*1*) Every Board shall consist of the following members, namely :— Constitution of Cantonment Board

(*a*) the [1][Officer Commanding the station],

(*b*) a Magistrate of the first class nominated by the District Magistrate;

(*c*) the Health Officer,

(*d*) the Executive Engineer,

(*e*) such military officers not exceeding four in number as may be nominated [2][by name] by the [1][Officer Commanding the station] by order in writing

Provided that the [1][Officer Commanding the station] may, if he thinks fit, with the sanction of the [3][Officer Commanding-in-Chief, the Command], nominate in place of any military

1 These words were substituted by s 14 of the Cantonments (Amendment) Act 1925 (7 of 1925)

2 These words were inserted by s 3, *ibid*.

3 These words were substituted by s 2 of the Cantonments (Amendment) Act,1925 (35 of 1926)

officer whom he is empowered to nominate under this clause any person, whether in the service of the Government or not, who is ordinarily resident in the cantonment or in the vicinity thereof, to represent any interest or community not otherwise represented on the Board;

(*f*) such number of members elected under this Act as is equal to the number of members [1][constituted] or nominated by or under clauses (*b*) to (*e*):

Provided that, in the case of any cantonment—

(*a*) in which the total civil population is, according to the latest census, less than two thousand five hundred in number, or

(*b*) which is situate in the North-West Frontier Province or in British Baluchistan,

the Local Government may, by notification[2] in the local official Gazette, declare that the provisions of clauses (*e*) and (*f*) shall not apply and may, with the concurrence of the Officer Commanding-in-Chief, the Command, by a like notification, nominate as members of the Board not more than three persons who are resident in the cantonment or in the vicinity thereof and who either own land or house property in the cantonment or carry on business therein.

(*2*) Every election [1][or nomination] of a member of a Board and every vacancy in the membership thereof shall be notified by the Local Government in the local official Gazette.

n of e of nbers.

15. (*1*) Save as otherwise provided in this section, the term of office of a member of a Board shall be three years and shall commence from the date of the notification of his election or nomination under sub-section (2) of section 14, or from the date on which the vacancy has occurred in which he is elected or nominated, whichever date is later.

(*2*) The term of office of an *ex-officio* member of a Board shall continue so long as he holds the office in virtue of which he is such a member.

(3) The term of office of a member elected to fill a casual vacancy

16. (1) Vacancies arising by efflux of time in the office of an elected member of a Board shall be filled by an ordinary election to be held on such date as the Local Government may, by notification in the local official Gazette, direct. Filling of vacancies.

(2) A casual vacancy shall be filled by a casual election the date of which shall be fixed by the Local Government by notification in the local official Gazette, and shall be as soon as may be after the occurrence of the vacancy:

Provided that no casual election shall be held to fill a vacancy occurring within three months of any date on which the vacancy will occur by efflux of time, but such vacancy shall be filled at the next ordinary election.

17. (1) If from any cause at an ordinary election no member is elected, or if the elected member is unwilling to serve on the Board, the outgoing member shall, if qualified and willing to serve, be deemed to have been re-elected. Vacancies in special cases.

(2) If in any such case the outgoing member is not qualified or is not willing to serve, or if at a casual election no member is elected, the vacancy shall be filled by nomination by the Local Government with the concurrence of the Officer Commanding-in-Chief, the Command.

(3) The term of office of a member nominated or deemed to have been re-elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

18. (1) *Every person who is by virtue of his office, or who is nominated or elected to be, a member of a Board shall, before taking his seat, make at a meeting of the Board an oath or affirmation of his allegiance to the Crown in the following form, namely:—* Oath or affirmation.

"I, A. B., having become / been elected / been nominated a member of this Board, do solemnly swear (*or* affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, his heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

(2) If any such person fails to make the oath or affirmation within such time as the Local Government considers reasonable, the Local Government shall, by notification in the local official Gazette, declare his seat to be vacant.

19. (1) Any nominated or elected member of a Board who wishes to resign his office may forward his resignation in writing through the President of the Board to the Officer Commanding-in-Chief, the Command, who shall forward it for orders to the Local Government. Resignation.

(2) If the Local Government accepts the resignation, such acceptance shall be communicated to the Board, and thereupon the seat of the member resigning shall become vacant.

President and Vice-President.

20. (*1*) The [1][Officer Commanding the station] shall be the President of the Board:

[2][Provided that when a military officer holding the office of President ceases to be the Officer Commanding the station merely by reason of a temporary absence from the station on duty or on station leave, or during the transfer of his headquarters to a hill station, he shall not vacate the office of President.]

(2) There shall be a Vice-President of every Board elected from among the members at a meeting thereof:

Provided that, where the Board includes elected members, the Vice-President shall be elected by those members only from among their number.

Term of office of Vice-President.

21. (*1*) The term of office of a Vice-President shall be—

(*a*) in the case of a person who is not in the service of the Government, three years or the residue of his term of office as a member, whichever is less, or

(*b*) in the case of a person in the service of the Government, the residue of the term of his office as a member.

(2) A Vice-President may resign his office by notice in writing to the President and, on the resignation being accepted by the Board, the office shall become vacant.

Duties of President.

22. (*1*) It shall be the duty of the President of every Board—

(*a*) unless prevented by reasonable cause, to convene and preside at all meetings of the Board and to regulate the conduct of business thereat:

(*b*) to exercise supervision and control over the financial and executive administration of the Board;

(*c*) to perform all the duties and exercise all the powers specifically

clause (c) of sub section (1) other than any power duty or function which he is by resolution of the Board expressly forbidden to delegate

(3) The exercise or discharge of any powers duties or functions delegated by the President under this section shall be subject to such restrictions limitations and conditions if any as may be laid down by the President and to the control of and to revision by the President

(4) Every order made under sub section (2) shall forthwith be communicated to the Board and to the [1][Officer Commanding in Chief the Command]

23 It shall be the duty of the Vice President of every Board— **Duties of Vice President**

(a) in the absence of the President and unless prevented by reasonable cause to preside at meetings of the Board and when so presiding to exercise the authority of the President under sub section (1) of section 22

(b) during the incapacity or temporary absence of the President or pending his appointment or succession to perform any other duty and exercise any other power of the President and

(c) to exercise any power and perform any duty of the President which may be delegated to him under sub section (2) of section 22

24 The Executive Officer shall perform all the duties imposed upon him by or under this Act and shall be responsible for the custody of all the records of the Cantonment Authority and shall arrange for the performance of such duties relative to the proceedings of the Board or of any Committee of the Board or of any Committee of Arbitration constituted under this Act as those bodies may respectively impose on him and shall comply with every requisition of the Cantonment Authority on any matter pertaining to the administration of the cantonment **Duties of the Executive Officer**

25 The Executive Officer may in cases of emergency direct the execution of any work or the doing of any act which would ordinarily require the sanction of the Cantonment Authority and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act shall be paid from the cantonment fund **Special power of the Executive Officer**

Provided that—

(a) where there is a Board he shall not act under this section without the previous sanction of the President or in his absence of the Vice President

[1] These words were substituted by s 2 of the Cantonments (Amendment) Act 1976 (35 of 1976)

(*b*) he shall not act under this section in contravention of any order of the Cantonment Authority prohibiting the execution of any particular work or the doing of any particular act; and

(*c*) he shall report forthwith the action taken under this section and the reasons therefor to the Cantonment Authority.

Elections.

Electoral rolls.

26. (*1*) Where a Board is to be constituted in any cantonment, otherwise than in accordance with the proviso to sub-section (*1*) of section 14, the Cantonment Authority shall prepare and publish an electoral roll showing the names of persons qualified to vote at elections to the Board. Such roll shall be prepared, revised and finally published in such manner and on such date in each year as the Local Government may by rule prescribe.

(*2*) Every person whose name appears in the final electoral roll shall, so long as the roll remains in force, be entitled to vote at an election to the Board, and no other person shall be so entitled.

(*3*) When a cantonment has been divided into wards, or the inhabitants into classes, the electoral roll shall be divided into separate lists for each ward or class, as the case may be.

(*4*) If a new electoral roll is not published in any year on the date prescribed, the Local Government may direct that the old electoral roll shall continue in operation until the new roll is published.

Qualification of elec-

27. (*1*) The following persons shall, if not otherwise disqualified,

(ii) is carrying on any business in the cantonment from which he derives an annual income calculated in such manner, and of not less than such amount, as the Local Government may by rule prescribe or

(iii) is a graduate of any University established by law in British India, or

(iv) is a retired or pensioned officer, whether commissioned or non commissioned, of His Majesty's forces,

(c) every person who has, during a period of not less than twelve months immediately preceding the aforesaid date, resided in the cantonment and has during that period been assessed to income tax

(2) A person, notwithstanding that he is otherwise qualified shall not be entitled to be enrolled as an elector if he on the aforesaid date—

(i) is not a British subject, or

(ii) is less than 21 years of age, or

(iii) has been adjudged by a competent Court to be of unsound mind, or

(iv) is an undischarged insolvent, or

(v) has been sentenced by a Criminal Court to imprisonment for a term exceeding six months or to transportation or has been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898, or has been sentenced by a Criminal Court for any offence under Chapter IXA of the Indian Penal Code

[margin: ...f 1898 / ...V of ...0]

Provided that the Local Government may, by order in writing, remove any disqualification incurred by a person under clause (v)

(3) If any person having been enrolled as an elector in any electoral roll subsequently becomes subject to any of the disqualifications referred to in clauses (i), (iii), (iv) and (v) of sub section (2), his name shall be removed from the electoral roll unless, in the case referred to in clause (v), the disqualification is removed by the Local Government

Qualification for being a member of the Board

28 (1) Save as hereinafter provided, every person, not being [1][a stipendiary Magistrate or] a military officer or soldier, whose name is entered on the electoral roll of a cantonment shall be qualified for election as a member of the Board in that cantonment

[1] These words were inserted by s 4 of the Cantonments (Amendment) Act, 1925 (7 of 1925

(Chapter III.—Cantonment Authorities and Cantonment Boards.)

(2) No person shall be qualified for election or nomination as a member of a Board, if he—

(*a*) has been dismissed from Government service and is debarred from re-employment therein, or is a dismissed servant of the Cantonment Authority;

(*b*) is debarred from practising as a legal practitioner by order of any competent authority;

(*c*) holds any place of profit in the gift or at the disposal of the Board, or is a [1]* * police officer, or is the servant or employer of a member of the Board; or

(*d*) is interested in a subsisting contract made with, or in work being done for, the Board except as a shareholder (other than a director) in an incorporated company; or

(*e*) is disqualified under any other provision of this Act:

Provided that—

(i) any of the disqualifications referred to in clauses (*a*) and (*b*) may be removed by an order of the Local Government in this behalf, and

(ii) a person shall not be deemed to have any interest in such a contract or work as is referred to in clause (*d*) by reason only of his having a share or interest in—

(*a*) any lease or sale or purchase of immoveable property or any agreement for the same; or

(*b*) any agreement for the loan of money or any security for the payment of money only; or

(*c*) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

(*d*) the sale to the Board of any articles in which he regularly trades or the purchase from the Board of any articles, to a value in either case not exceeding Rs. 1,500 in the aggregate in any year during the period of the contract or work.

Interpretation.

29. For the purposes of sections 26, 27 and 28—

(*a*) "person" means an individual human being, and

(*b*) a person shall be deemed to pay a tax directly if he pays the tax either himself or through a legally appointed agent.

Joint families, etc.

30. Notwithstanding anything hereinbefore contained, the Local Government may make rules conferring on the manager or representative of an undivided family or of any company or firm or other association or body or on any trustee of any land a right to be enrolled as an elector or to be nominated as a candidate at elections to a Board.

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1 Certain words were omitted by s. 4 of the Cantonments [illegible] (17 of 1925).

(Chapter III.—Cantonment Authorities and Cantonment Boards.)

31. The Local Government may, either generally or specially for any cantonment or group of cantonments, after previous publication, make rules consistent with this Act to regulate all or any of the following matters for the purpose of the holding of elections under this Act, namely:— **Power to make rules regulating elections.**

(a) the division of a cantonment into wards, or of the inhabitants of a cantonment into classes, or both;

(b) the determination of the number of members to be elected by each ward or class of persons;

(c) the method by which the annual value of buildings and lands shall be calculated for the purposes of section 27;

(d) the preparation, revision and final publication of electoral rolls;

(e) the registration of electors, the nomination of candidates, the time and manner of holding elections and the method by which votes shall be recorded;

(f) the authority by which and the manner in which disputes relating to electoral rolls or arising out of elections shall be decided, and the powers and duties of such authority and the circumstances in which such authority may declare a casual vacancy to have been created or any candidate to have been elected;

(g) any other matter relating to elections or election disputes in respect of which the Local Government is empowered to make rules under this Chapter or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Local Government, necessary.

Members.

32. No member of a Board shall vote at a meeting of the Board on any question relating to his own conduct or on any matter, other than a matter affecting generally the inhabitants of the cantonment, which affects his own pecuniary interest or the valuation of any property in respect of which he is directly or indirectly interested, or of any property of or for which he is a manager or agent. **Member not to vote on matter in which he is interested.**

33. Every member of a Board shall be liable for the loss, waste or misapplication of any money or other property belonging to the Board, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while such member; and a suit for compensation for the same may be instituted against him either by the Board or by the Secretary of State for India in Council. **Liability of members.**

Removal of members.

34. [1][(*1*) The Local Government may remove from a Board any member thereof who—

(*a*) becomes subject to any of the disqualifications specified in sub-section (*2*) of section 27, or in sub-section (*2*) of section 28; or

(*b*) has absented himself for more than three consecutive months from the meetings of the Board and is unable to explain such absence to the satisfaction of the Board; or

(*c*) has knowingly contravened the provisions of section 32; or

(*d*) being a legal practitioner, acts or appears on behalf of any other person against the Board in any legal proceeding or against the Secretary of State in Council in any such proceeding relating to any matter in which the Board is or has been concerned, or acts or appears on behalf of any person in any criminal proceeding instituted by or on behalf of the Board against such person.]

(*2*) The Local Government may remove from a Board any member who, in the opinion of the Local Government, has so flagrantly abused in any manner his position as a member of the Board as to render his continuance as a member detrimental to the public interests.

(*3*) No member shall be removed from a Board under this section unless he has been given a reasonable opportunity of showing cause against his removal.

Consequences of removal.

35. [2][(*1*) A member removed under clause (*b*) of sub-section (*1*) of section 34 shall, if otherwise qualified, be eligible for re-election or re-nomination.

(*2*) A member removed under clause (*c*) or clause (*d*) of sub-section (*1*) of section 34 shall not be eligible for re-election or nomination for the period during which, but for such removal, he would have continued in office.

(*3*) A member removed under sub-section (*2*) of section 34 shall not be eligible for re-election or nomination until the expiry of three years from the date of his removal.]

Servants.

Disqualification of person as servant of Cantonment Authority.

36. (*1*) No person who has directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of a Cantonment Authority or in any employment under, by or on behalf of a Cantonment Authority, otherwise than as a servant of the Cantonment Authority, shall become or remain a servant of such Cantonment Authority.

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1 This sub-section was [illegible] 1927 (5 of 1927).

2 This section was substituted by s. [illegible]

(2) A servant of a Cantonment Authority who knowingly acquires or continues to have directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of the Cantonment Authority or, in any employment under, by or on behalf of, the Cantonment Authority, otherwise than as a servant of the Cantonment Authority, shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

(3) Nothing in this section shall apply to any share or interest in any contract with, by or on behalf of, or employment under, by or on behalf of a Cantonment Authority if the same is a share in a company contracting with, or employed by, or on behalf of, the Cantonment Authority or is a share or interest acquired or retained with the permission of the [1][Officer Commanding-in-Chief, the Command,] in any lease or sale to, or purchase by, the Cantonment Authority of land or buildings or in any agreement for the same.

Cantonment servant to be deemed a public servant.

[2][**36A.** Every officer or servant, permanent or temporary, of a Cantonment Authority shall be deemed to be a public servant within the meaning of the Indian Penal Code, and in the definition of Legal remuneration in section 161 of that Code the word "Government" shall, for the purposes of this section, be deemed to include a Cantonment Authority.]

Procedure.

Meetings.

37. (1) Every Board shall ordinarily hold at least one meeting in every month on such day as may be fixed, and of which notice shall be given in such manner as may be provided, by regulations made by the Board under this Chapter.

(2) The President may, whenever he thinks fit, and shall, upon a requisition in writing by not less than one-fourth of the members of the Board, convene a special meeting.

(3) Any meeting may be adjourned until the next or any subsequent day, and an adjourned meeting may be further adjourned in like manner.

Business to be transacted.

38. Subject to any regulation made by the Board under this Chapter, any business may be transacted at any meeting:

Provided that no business relating to the imposition, abolition or modification of any tax shall be transacted at a meeting unless notice of the same and of the date fixed therefor has been sent to each member not less than seven days before that date.

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1 These words were substituted by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

2 This section was inserted by s. 5 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

(Chapter III.—Cantonment Authorities and Cantonment Boards.)

Quorum.

39. (*1*) The quorum necessary for the transaction of business at a

Amendment of section 39, Act II of 1924.

2. To sub-section (*1*) of section 39 of the Cantonments Act, 1924 (hereinafter referred to as the said Act), the following proviso shall be added, namely:— II of 1924.

"Provided that, where the Board does not include any elected member, the quorum shall be four."

brought before, and may be transacted at, an adjourned meeting, whether there is a quorum present or not.

Presiding officer.

40. In the absence of both the President and the Vice-President from any meeting, the members present shall elect one from among their own number to preside.

Minutes.

41. (*1*) Minutes of the proceedings of each meeting shall be recorded in a book and shall be signed by the President before the close of the meeting, and shall, at such times and in such place as may be fixed by the Board, be open to inspection free of charge by any inhabitant of the cantonment.

(*2*) Copies of the minutes shall, as soon as possible after each meeting, be forwarded for information to [1][the Officer Commanding-in-Chief, the Command,] the Officer Commanding the District, the Officer Commanding the brigade area, and the District Magistrate.

Meetings to be public.

42. Every meeting of a Board shall be open to the public unless in any case the President, for reasons to be recorded in the minutes, otherwise directs.

Method of deciding questions.

43. (*1*) All questions coming before a meeting shall be decided by the majority of the votes of the members present and voting.

(*2*) In the case of an equality of votes, the President shall have a second or casting vote.

(*3*) The dissent of any member from any decision of the Board shall,

(*e*) the appointment of committees for any purpose and the determination of all matters relating to the constitution and procedure of such committees and the delegation to such committees, subject to any conditions which the Board thinks fit to impose, of any of the powers or duties of the Board under this Act other than a power to make regulations or bye laws

(*2*) No regulation made under clause (*e*) of sub section (*1*) shall take effect until it has been approved by the Local Government

(*3*) No regulation made under this section shall take effect until it has been published in such manner as the Local Government may direct

45 (*1*) A Cantonment Authority may— Joint action with other local authority

(*a*) join with any other local authority—

(i) in appointing a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee,

(ii) in delegating to such committee power to frame terms binding on the Cantonment Authority and such other local authority as to the construction and future maintenance of any joint work or to exercise any power which might be exercised by either of the said authorities, and

(iii) in making rules for regulating the proceedings of any such committee relating to the purposes for which it has been appointed, or

(*b*) with the previous sanction of the Local Government, enter into an agreement with any other local authority regarding the levy of any tax or toll whereby the said tax or toll respectively leviable by the authorities so contracting may be levied together instead of separately within the limits of the aggregate area comprising the areas subject to the control of the said authorities

(*2*) If any difference of opinion arises between any authorities acting together under this section, the decision thereon of the Local Government or of an officer appointed by the Local Government in this behalf shall be final

(*3*) When any agreement such as is referred to in clause (*b*) of sub section (*1*) has been entered into, then—

(*a*) where the agreement relates to an octroi or terminal tax or toll, the other local authority with which the Cantonment Authority has made such agreement shall have the same powers to establish octroi limits and octroi stations and places for the collection of the terminal tax and terminal toll within the

cantonment, as it has within the area ordinarily subject to its control;

(*b*) such other local authority shall have the same power of collecting such tax or toll in the cantonment, and the provisions of any enactment in force relating to the levy of such tax or toll by such other local authority shall apply in the same manner, as if the cantonment were comprised within the area ordinarily subject to its control; and

(*c*) the total of the collection of such tax and toll made in the cantonment and in the area ordinarily subject to the control of such other local authority and the costs thereby incurred shall be divided between the cantonment fund and the fund subject to the control of such other local authority, in such proportion as may have been determined by the agreement.

Control.

Power of Government to require production of documents.

46. The Governor General in Council or the Local Government may at any time require a Cantonment Authority—

(*a*) to produce any record, correspondence, plan or other document in its possession or under its control;

(*b*) to furnish any return, plan, estimate, statement, account or statistics relating to its proceedings, duties or works;

(*c*) to furnish or obtain and furnish any report.

Inspection.

47. The [1][Governor General in Council or the Officer Commanding-in-Chief, the Command,] may depute any person in the service of the Government to inspect or examine any department of the office of, or any service or work undertaken by, or thing belonging to, a Cantonment Authority, and to report thereon, and the Cantonment Authority and its officers and servants shall be bound to afford the person so deputed access at all reasonable times to the premises and property of the Cantonment Authority and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties.

Power to call for documents.

48. The [1][Governor General in Council or the Officer Commanding-in-Chief, the Command,] may, by order in writing,—

(*a*) call for any book or document in the possession or under the control of the Cantonment Authority;

(*b*) require the Cantonment Authority to furnish such statements, accounts, reports and copies of documents relating to its proceedings, duties or works as he thinks fit.

1 [illegible] by s. 4 of the Cantonments [illegible] 19[illegible] 192[illegible]

(Chapter III.—Cantonment Authorities and Cantonment Boards.)

Power to require execution of work, etc.

49. If, on receipt of any information or report obtained under section 47 or section 48, the [1][Governor General in Council or the Officer Commanding-in-Chief, the Command,] is of opinion—

(a) that any duty imposed on a Cantonment Authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or

(b) that adequate financial provision has not been made for the performance of any such duty,

he may, [1][after consultation with] the Local Government, direct the Cantonment Authority, within such period as he thinks fit, to make arrangements to his satisfaction for the proper performance of the duty, or, as the case may be, to make financial provision to his satisfaction for the performance of the duty:

Provided that, unless in the opinion of the [1][Governor General in Council or the Officer Commanding-in-Chief, the Command, as the case may be,] the immediate execution of such order is necessary, he shall before making any direction under this section, give the Cantonment Authority an opportunity of showing cause why such direction should not be made.

Power to provide for enforcement of direction under section 49.

50. If, within the period fixed by a direction made under section 49, any action the taking of which has been directed under that section has not been duly taken, the [2][Governor General in Council or the Officer Commanding-in-Chief, the Command, as the case may be,] may make arrangements for the taking of such action, and may direct that all expenses connected therewith shall be defrayed out of the cantonment fund.

Power to override decision of Board.

51. (1) If the President dissents from any decision of the Board, which he considers prejudicial to the health, welfare or discipline of the troops in the cantonment, he may, for reasons to be recorded in the minutes, by order in writing, direct the suspension of action thereon for any period not exceeding one month and, if he does so, shall forthwith refer the matter to the Officer Commanding-in-Chief, the Command, [3][the reference being made, save in cases where the Officer Commanding the District is himself the Officer Commanding-in-Chief, the Command, for the purposes of this Act] through the Officer Commanding the District, who may make such recommendations thereon as he thinks fit.

(2) If the District Magistrate considers any decision of a Cantonment Authority to be prejudicial to the public health, safety or convenience, he may, after giving notice in writing of his intention to the

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[1] These words were substituted by s. 5 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

[2] These words were substituted by s. 6, *ibid*.

[3] These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

(Chapter III.—Cantonment Authorities and Cantonment Boards.)

Cantonment Authority, refer the matter to the Local Government; and, pending the disposal of the reference to the Local Government, no action shall be taken on the decision.

(3) If any Magistrate who is a member of a Board, being present at a meeting, dissents from any decision which he considers prejudicial to the public health, safety or convenience, he may, for reasons to be recorded in the minutes and after giving notice in writing of his intention to the President, report the matter to the District Magistrate; and the President shall, on receipt of such notice, direct the suspension of action on the decision for a period sufficient to allow of a communication being made to the District Magistrate and of his taking proceedings as provided by sub-section (2).

Power of Officer Commanding-in-Chief, the Command, on reference under section 51 or otherwise.

52. (1) The Officer Commanding-in-Chief, the Command, may at any time ~~on a recommendation made to him in this behalf by the Officer Commanding the District,~~ [1][~~or where the Officer Commanding the District is himself the Officer Commanding-in-Chief, the Command, for the purposes of this Act, of his own motion~~]—

(a) direct that any matter or any specific proposal other than one which has been referred to the Local Government under sub-section (2) of section 51 be considered or re-considered by the Cantonment Authority; or

(b) direct the suspension, for such period as may be stated in the order, of action on any decision of a Cantonment Authority, other than a decision which has been referred to him under sub-section (1) of section 51, and thereafter cancel the suspension or direct that the decision shall not be carried into effect or that it shall be carried into effect with such modifications as he may specify.

(2) When any decision of a Board has been referred to him under sub-section (1) of section 51, the Officer Commanding-in-Chief, the Command, may, by order in writing,—

(a) cancel the order given by the President directing the suspension of action; or

(b) extend the duration of the order for such period as he thinks fit; or

(c) direct that the decision be carried into effect by the Board with such modifications as he may specify.

Powers of Local Government on a reference made under section 51.

53. When any decision of a Cantonment Authority has been referred to the Local Government under sub-section (2) of section 51, the Local Government may, after consulting the Officer Commanding-in-Chief, the Command, by order in writing,—

(a) direct that no action be taken on the decision; or

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1 These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

(*b*) direct that the decision be carried into effect either without modification or with such modifications as it may specify

54 (*1*) If, in the opinion of the Local Government, any Board is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the Local Government may, with the previous sanction of the Governor General in Council, by an order published, together with the statement of the reasons therefor, in the local official Gazette, declare the Board to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for such period as may be specified in the order — Supersession of Board

Provided that no Board shall be superseded unless a reasonable opportunity has been given to it to show cause against the supersession

(*2*) When a Board is superseded by an order under sub section (*1*)—

(*a*) all members of the Board shall, on such date as may be specified in the order, vacate their offices as such members but without prejudice to their eligibility for election or nomination under clause (*c*),

(*b*) during the supersession of the Board, all powers and duties conferred and imposed upon the Board by or under this Act or otherwise by law shall be exercised and performed by the [1][Officer Commanding the station] subject to such reservation, if any, as the Local Government may prescribe in this behalf, and

(*c*) before the expiry of the period of supersession elections shall be held and nominations made for the purpose of reconstituting the Board

Validity of Proceedings

55. (1) No act or proceeding of a Board or of any committee of a Board shall be invalid by reason only of the existence of a vacancy in the Board or committee — Validity of proceedings, etc.

(*2*) No disqualification or defect in the election, nomination or appointment of a person acting as the President or a member of a Board or of any such committee shall vitiate any act or proceeding of the Board or committee if the majority of the persons present at the time of the act being done or the proceeding being taken were duly qualified members thereof

(*3*) Any document or minutes which purport to be the record of the proceedings of a Board or of any committee of a Board shall, if made and signed substantially in the manner prescribed for the making and signing of the record of such proceedings, be presumed to be a correct record of the proceedings of a duly convened meeting, held by a duly constituted Board or committee, as the case may be, whereof all the members were duly qualified

[1] These words were substituted by s 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925)

CHAPTER IV.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

Unauthorised sale of spirituous liquor or intoxicating drug.

56. If within a cantonment, or within such limits adjoining a cantonment as the Local Government may, by notification in the local official Gazette, define, any person not subject to military or air-force law or any person subject to military or air-force law otherwisé than as a military officer or a soldier knowingly barters, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any soldier or follower or soldier's wife or minor child without the written permission of the [1][Officer Commanding the station] or of some person authorised by the [1][Officer Commanding the station] to grant such permission, he shall be punishable with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Unauthorised possession of spirituous liquor.

57. If within a cantonment, or within any limits defined under section 56,—

(a) any person subject to military or air-force law otherwise than as a military officer or a soldier, or

(b) the wife or servant of any such person or of a soldier,

has in his or her possession, except on behalf of the Government or for the private use of a military officer, more than one quart of any spirituous liquor, other than fermented malt-liquor, without the written permission of the [1][Officer Commanding the station] or of some person authorised by the [1][Officer Commanding the station] to grant such permission, he or she shall be punishable, in the case of a first offence, with fine which may extend to fifty rupees, and, in the case of a subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees.

Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections.

58. (1) Any police officer or excise officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence under section 56 or section 57, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence under section 56 has been previously convicted of an offence under that section, an officer in charge of a police station may, with the written permission of a Magistrate,

1 These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

seize and detain any spirituous liquor or intoxicating drug within the cantonment or within any limits defined under that section which, at the time of the alleged commission of the subsequent offence, belonged to, or was in the possession of, such person.

(3) The Court convicting a person of an offence under section 56 or section 57 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1898, anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken. 398

Saving of articles sold or supplied for medicinal purposes.

59. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article in good faith for medicinal purposes by a medical practitioner, chemist or druggist authorised in this behalf by a general or special order of the [1][Officer Commanding the station].

CHAPTER V

TAXATION.

Imposition of Taxation

General power of taxation.

60. The Local Government may, by notification[2] in the local official Gazette, impose in any cantonment any tax which, under any enactment in force on the date of the notification, may be imposed in any municipality within the province.

[3][Provided that, where the previous sanction of the Governor General in Council is required to the imposition of any tax in a municipality, such sanction shall also be required to its imposition in a cantonment.]

Framing of preliminary proposals.

61. (1) When the Local Government proposes to impose any tax under section 60, it shall, by notification in the local official Gazette, and in such other manner as is in its opinion best suited for the purpose, give notice of its intention.

(2) Every notification issued under sub-section (1) shall specify—

(a) the tax which it is proposed to impose;

(b) the persons or classes of persons to be made liable and the description of the property or other taxable thing or circumstance in respect of which they are to be made liable, and

(c) the rate at which the tax is to be levied.

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1 These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

2 For such Notifications by the Government of Assam, see Assam Gazette, 1926, Pt. II, p. 338, *ibid.* 1925 Pt. II, p. 1380.

3 This proviso was added by s. 6 of the Cantonments (Amendment) Act, 1927 (26 of 1927).

Objections.

62. Any inhabitant of the cantonment may, within thirty days from the date of the notification under section 61, submit to the Local Government an objection in writing to all or any of the proposals framed therein, and the Local Government shall take any objection so submitted into consideration.

Consideration of objections and imposition of tax.

63. After the expiry of thirty days from the date of the notification and after considering all objections submitted thereto under section 62, the Local Government may impose the tax either in the original form or, if any such objection has been so submitted, in that form or in such modified form as it thinks fit.

Definition of "annual value."

64. For the purposes of this Chapter "annual value" means—

(*a*) in the case of railway stations, hotels, colleges, schools, hospitals, factories and any other buildings which a Cantonment Authority decides to assess under this clause, one-twentieth of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appertaining thereto, and

(*b*) in the case of a building or land not assessed under clause (*a*), the gross annual rent for which such building (exclusive of furniture or machinery therein) or such land is actually let or, where the building or land is not let or in the opinion of the Cantonment Authority is let for a sum less than its fair letting value, might reasonably be expected to let from year to year:

Provided that, where the annual value of any building is, by reason of exceptional circumstances, in the opinion of the Cantonment Authority, excessive if calculated in the aforesaid manner, the Cantonment Authority may fix the annual value at any less amount which appears to it to be just.

Incidence of taxation.

65. (*1*) Save as otherwise expressly provided in the notification imposing the tax, every tax [1][assessed] on the annual value of buildings or lands or of both shall be leviable primarily upon the actual occupier of the property upon which the said tax is assessed, if he is the owner of the buildings or lands or holds them on a building or other lease from the Secretary of State in Council or from the Cantonment Authority or on a building lease from any person.

(*2*) In any other case, the tax shall be primarily leviable as follows, namely :—

(*a*) if the property is let, upon the lessor;

(*b*) if the property is sub-let, upon the superior lessor;

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[1] This word was inserted by s. 7 of the Cantonments (Amendment) Act, 1927 (26 of 1927).

(c) if the property is unlet, upon the person in whom the right to let the same vests.

(3) On failure to recover any sum due on account of such tax from the person primarily liable, there may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion of the sum due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment list.

(4) An occupier who makes any payment for which he is not primarily liable under this section shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable for the payment and, if so entitled, may deduct the amount so paid from the amount of any rent from time to time becoming due from him to such person.

Assessment List

66. When a tax [1][assessed] on the annual value of buildings or lands or both is imposed, the Cantonment Authority shall cause an assessment list of all buildings or lands in the cantonment, or of both, as the case may be, to be prepared in such form[2] as the Local Government may by rule prescribe. **Assessment list.**

67. When the assessment list has been prepared, the Cantonment Authority shall give public notice thereof, and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee or occupier of any property included in the list, and any authorised agent of such person, shall be at liberty to inspect the list and to make extracts therefrom free of charge. **Publication of assessment list.**

68. (1) The Cantonment Authority shall, at the same time, give public notice of a date, not less than one month thereafter, when it will proceed to consider the valuations and assessments entered in the assessment list, and, in all cases in which any property is for the first time assessed or the assessment is increased, it shall also give written notice thereof to the owner and to any lessee or occupier of the property. **Revision of assessment list.**

(2) Any objection to a valuation or assessment shall be made in writing to the Cantonment Authority before the date fixed in the notice, and shall state in what respect the valuation or assessment is disputed,

1 This word was inserted by s. 8 of the Cantonments (Amendment) Act, 1927 (26 of 1927).

2 For such form for Shillong Cantonment, see Assam Gazette, 1925 Pt. II, p. 904.

Objections.

62. Any inhabitant of the cantonment may, within thirty days from the date of the notification under section 61, submit to the Local Government an objection in writing to all or any of the proposals framed therein, and the Local Government shall take any objection so submitted into consideration.

Consideration of objections and imposition of tax.

63. After the expiry of thirty days from the date of the notification and after considering all objections submitted thereto under section 62, the Local Government may impose the tax either in the original form or, if any such objection has been so submitted, in that form or in such modified form as it thinks fit.

Definition of "annual value."

64. For the purposes of this Chapter "annual value" means—

(*a*) in the case of railway stations, hotels, colleges, schools, hospitals, factories and any other buildings which a Cantonment Authority decides to assess under this clause, one-twentieth of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appertaining thereto, and

(*b*) in the case of a building or land not assessed under clause (*a*), the gross annual rent for which such building (exclusive of furniture or machinery therein) or such land is actually let or, where the building or land is not let or in the opinion of the Cantonment Authority is let for a sum less than its fair letting value, might reasonably be expected to let from year to year:

Provided that, where the annual value of any building is, by reason of exceptional circumstances, in the opinion of the Cantonment Authority, excessive if calculated in the aforesaid manner, the Cantonment Authority may fix the annual value at any less amount which appears to it to be just.

Incidence of taxation.

65. (*1*) Save as otherwise expressly provided in the notification imposing the tax, every tax [1][assessed] on the annual value of buildings or lands or of both shall be leviable primarily upon the actual occupier of the property upon which the said tax is assessed, if he is the owner of the buildings or lands or holds them on a building or other lease from the Secretary of State in Council or from the Cantonment Authority or on a building lease from any person.

(*2*) In any other case, the tax shall be primarily leviable as follows, namely:—

(*a*) if the property is let, upon the lessor;

(*b*) if the property is sub-let, upon the superior lessor;

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1 This word was inserted by s. 7 of the Cantonments (Amendment) Act, 1927 (26 of 1927).

(c) if the property is unlet, upon the person in whom the right to let the same vests.

(3) On failure to recover any sum due on account of such tax from the person primarily liable, there may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion of the sum due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment list.

(4) An occupier who makes any payment for which he is not primarily liable under this section shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable for the payment and, if so entitled, may deduct the amount so paid from the amount of any rent from time to time becoming due from him to such person.

Assessment List.

66. When a tax [1][assessed] on the annual value of buildings or lands or both is imposed, the Cantonment Authority shall cause an assessment list of all buildings or lands in the cantonment, or of both, as the case may be, to be prepared in such form[2] as the Local Government may by rule prescribe. Assessment list.

67. When the assessment list has been prepared, the Cantonment Authority shall give public notice thereof, and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee or occupier of any property included in the list, and any authorised agent of such person shall be at liberty to inspect the list and to make extracts therefrom free of charge. Publication of assessment list.

68. (1) The Cantonment Authority shall, at the same time, give public notice of a date, not less than one month thereafter, when it will proceed to consider the valuations and assessments entered in the assessment list, and, in all cases in which any property is for the first time assessed or the assessment is increased, it shall also give written notice thereof to the owner and to any lessee or occupier of the property. Revision of assessment list.

(2) Any objection to a valuation or assessment shall be made in writing to the Cantonment Authority before the date fixed in the notice, and shall state in what respect the valuation or assessment is disputed,

[1] This word was inserted by s. 8 of the Cantonments (Amendment) Act, 1927 (25 of 1927).
[2] For such form for Shillong Cantonment *see* Assam Gazette, 1925, Pt. II, p. 904.

and all objections so made shall be recorded in a register to be kept for the purpose by the Cantonment Authority.

(*3*) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by authorised agent, by an Assessment Committee appointed by the Cantonment Authority.

(*4*) The Assessment Committee shall consist of not less than three persons, and, where there is a Board, it shall not be necessary to appoint to the Assessment Committee any member thereof.

Authentication of assessment list.

69. (*1*) When all objections made under section 68 have been disposed of, and the revision of the valuation and assessment has been completed, the assessment list shall be authenticated by the signature of the members of the Assessment Committee who shall, at the same time, certify that they have considered all objections duly made and have amended the list so far as is required by their decisions on such objections.

(*2*) The assessment list so authenticated shall be deposited in the office of the Cantonment Authority, and shall there be open, free of charge, during office hours to all owners, lessees and occupiers of property comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

Evidential value of assessment list.

70. Subject to such alterations as may thereafter be made in the assessment list under the provisions of this Chapter and to the result of any appeal made thereunder, the entries in the assessment list authenticated and deposited as provided in section 69 shall be accepted as conclusive evidence—

(i) for the purpose of assessing any tax imposed under this Act, of the annual value or other valuation of all buildings and lands to which such entries respectively refer, and

(ii) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon during the year to which such list relates.

Amendment of assessment list.

71. (*1*) The Cantonment Authority may, at any time, amend the assessment list by inserting the name of any person whose name ought to have been or ought to be inserted, or by inserting any property which ought to have been or ought to be inserted, or by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the Cantonment Authority or of the Assessment Committee or of the assessee, or, in the case of a tax payable by an occupier, by a change in the tenancy, after giving notice to any person affected by the amendment of a time, not less than one month from the date of service, at which the amendment is to be made :

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the financial year in which the amendment is made.

(2) Any person interested in any such amendment may tender an objection to the Cantonment Authority in writing before the time fixed in the notice, and shall be allowed an opportunity of being heard in support of the same in person or by authorised agent.

72. The Cantonment Authority shall prepare a new assessment list at least once in every three years, and for this purpose the provisions of sections 66 to 71 shall apply in like manner as they apply for the purpose of the preparation of an assessment list for the first time. **Preparation of new assessment list.**

73. (1) Whenever the title of any person primarily liable for the payment of a tax on the annual value of any building or land to or over such building or land is transferred, the person whose title is transferred and the person to whom the same is transferred shall, within three months after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed, give notice of such transfer to the Executive Officer. **Notice of transfers.**

(2) In the event of the death of any person primarily liable as aforesaid, the person on whom the title of the deceased devolves shall give notice of such devolution to the Executive Officer within six months from the death of the deceased.

(3) The notice to be given under this section shall be in such form as the Executive Officer may direct, and the transferee or other person on whom the title devolves shall, if so required, be bound to produce before the Executive Officer any documents evidencing the transfer or devolution.

(4) Every person who makes a transfer as aforesaid without giving such notice to the Executive Officer shall continue liable for the payment of all taxes assessed on the property transferred until he gives notice or until the transfer has been recorded in the registers of the Cantonment Authority, but nothing in this section shall be held to affect the liability of the transferee for the payment of the said tax.

74. (1) If any building is erected or re-erected within the meaning of section 179, the owner shall give notice thereof to the Executive Officer within thirty days from the date of its completion or occupation, whichever is earlier. **Notice of erection of buildings.**

(2) Any person failing to give the notice required by sub-section (1) shall be punishable with fine which may extend to fifty rupees or ten times the amount of the tax payable on the said building, as erected or re-erected, as the case may be, in respect of a period of three months, whichever is greater.

Remission and Refund.

Demolition, etc., of buildings.

75. If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the Cantonment Authority may, on the application of the owner, remit or refund such portion of [1][any tax assessed on the annual value thereof] as it thinks fit.

Remission of tax.

76. In a cantonment other than a hill cantonment, when any building or land has remained vacant and unproductive of rent for ninety or more consecutive days during any year, the Cantonment Authority shall remit or refund, as the case may be, such portion of [2][any tax assessed on the annual value thereof and payable] in respect of that year as may be proportionate to the number of days during which the said building or land has remained vacant and unproductive of rent.

Power to require entry in assessment list of details of buildings.

77. For the purpose of obtaining a partial remission or refund of tax, the owner of a building composed of separate tenements may request the Cantonment Authority, at the time of the assessment of the building, to enter in the assessment list, in addition to the annual value of the whole building, a note recording in detail the annual value of each separate tenement. When any tenement, the annual value of which has been thus separately recorded, has remained vacant and unproductive of rent for ninety or more consecutive days during any year, such portion of [3][any tax assessed on the annual value of the whole building and payable in respect of that year] shall be remitted or refunded as would have been remitted or refunded if the tenement had been separately assessed.

Notice to be given of the circumstances in which [illegible] or [illegible] is claimed.

[4][**77A.**] [3][No remission or refund under ~~section 75,~~ section 76, section 77] shall be made unless notice in writing of the [illegible] ~~in which it is claimed~~ has been given to the Cantonment Authority [illegible] no remission or refund shall take effect in respect of any period [illegible] mencing more than fifteen days before the delivery of such notice [illegible]

What buildings, etc., are to be deemed vacant.

78. (*1*) For the purposes of sections 76 and 77 no building, t[illegible] or land shall be deemed vacant if maintained as a pleasure [illegible] town or country house, or be deemed unproductive of rent [illegible] tenant who has a continuing right of occupation thereof, [illegible] in actual occupation or not.

(*2*) The burden of proving all facts entitling any person [illegible] relief under section 75, or section 76, or section 77, shall be upc[illegible]

Notice to be given of every occupation of vacant building or house.

79. (*1*) The owner of any building, tenement or land in [illegible] which a remission or refund of tax has been given under secti[illegible]

1 These words were substituted by s. 9 of the Cantonments (Amendment) [illegible] (26 of 1927).

2 These words were substituted by s. 10, *ibid.*

3 These words were substituted by s. 11, *ibid.*

4 Numbered by s. 11, *ibid.*

section 77 shall give notice of the re occupation of such building or land within fifteen days of such re occupation

(2) Any owner failing to give the notice required by sub section (1) shall be punishable with fine which shall not be less than twice the amount of the tax payable on such building tenement or land in respect of the period during which it has been re occupied and which may extend to fifty rupees, or to ten times the amount of the said tax, whichever sum is greater

Charge on Immoveable Property

Tax on buildings and land to be a charge thereon

80. A tax assessed on the annual value of any building or land shall, subject to the prior payment of the land revenue if any, due to the Government thereon be a first charge upon the building or land

Octroi, Terminal Tax and Toll

Inspection of imported goods etc

81. Every person bringing or receiving any goods, vehicles or animals within the limits of any cantonment in which octroi or terminal tax or toll is leviable, shall, when so required by an officer duly authorised by the Cantonment Authority in this behalf, so far as may be necessary for ascertaining the amount of tax chargeable—

(a) permit that officer to inspect, examine or weigh such goods, vehicles or animals and

(b) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature which such person may possess relating to such goods, vehicles or animals

Evasion of octroi or terminal tax

82 (1) Any person who takes or attempts to take past any octroi station or any other place appointed within a cantonment for the collection of octroi, terminal tax or toll any goods vehicles or animals, on account of which octroi, terminal tax or toll is leviable and thereby evades, or attempts to evade, the payment of such octroi, terminal tax or toll, and any person who abets any such evasion or attempt at evasion, shall be punishable with fine which may extend either to ten times the value of such octroi, terminal tax or toll or to fifty rupees, whichever is greater, and which shall not be less than twice the value of such octroi, terminal tax or toll as the case may be

(2) In case of non payment of any octroi or terminal tax or toll on demand, the officer empowered to collect the same may seize any goods, vehicles or animals on which the octroi terminal tax or toll is chargeable or any part or number thereof which is of sufficient value to satisfy the demand

(3) The Cantonment Authority, after the lapse of five days from the seizure, and after the issue of a notice in writing to the person in whose possession the goods, vehicles or animals were at the time of seizure, fixing the time and place of sale, may cause the property so

(*Chapter V —Taxation*)

Provided that, where there is a Board and the person to whom the appeal would ordinarily lie is, or was when the tax was imposed, a member of the Board, the appeal shall lie to the Commissioner of the Division, or, in a province where there are no Commissioners, to the District Judge

(2) If, on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of, a tax arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of the appellant, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement with his own opinion on the point for the decision of the High Court

(3) On a reference being made under sub section (2), the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in Order XLVI of the First Schedule to the Code of Civil Procedure, 1908 [V of 1908]

Costs of appeal. 85 In every appeal the costs shall be in the discretion of the officer hearing the appeal

Recovery of costs from Cantonment Authority. 86. If the Cantonment Authority fails to pay any costs awarded to an appellant within ten days after the date of the order for payment thereof, the officer awarding the costs may order the person having the custody of the balance of the cantonment fund to pay the amount

Conditions of right to appeal. 87. No appeal shall be heard or determined under this Chapter unless—

(a) the appeal is, in the case of a tax assessed on the annual value of buildings or lands or both, brought within thirty days next after the date of the authentication of the assessment list under section 69 (exclusive of the time requisite for obtaining a copy of the relevant entries therein), or, as the case may be, within thirty days of the date on which an amendment is finally made under section 71, and, in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the Court before whom the appeal is preferred that he had sufficient cause for not preferring it within that period;

(*b*) the amount, if any, in dispute in the appeal has been deposited by the appellant in the office of the Cantonment Authority.

Finality of appellate orders.

88. The order of an appellate authority confirming, setting aside or modifying an order in respect of any valuation or assessment or liability to assessment or taxation shall be final :

Provided that it shall be lawful for the appellate authority, upon application or on its own motion, to review any order passed by it in appeal if application in this behalf is made within three months from the date of the original order.

Payment and Recovery of Taxes.

Time and manner of payment of taxes.

89. Save as otherwise expressly provided under this Act, any tax imposed under the provisions of this Act shall be payable on such dates and in such instalments, if any, as the Cantonment Authority may, by public notice, direct.

Presentation of bill.

90. (*1*) When any tax has become due, the Executive Officer shall cause to be presented to the person liable for the payment thereof a bill for the amount due.

(*2*) Every such bill shall specify the particulars of the tax and the period for which the charge is made.

Notice of demand.

91. (*1*) If the amount of the tax for which any bill has been presented is not paid to the Cantonment Authority within thirty days from the presentation thereof, the Executive Officer may cause to be served upon the person liable for the payment of the same a notice of demand in the form set forth in Schedule I.

(*2*) For every notice of demand which the Executive Officer causes to be served on any person under this section, a fee of such amount, not exceeding one rupee, as shall in each case be fixed by the Executive Officer, shall be payable by the said person and shall be included in the costs of recovery.

Recovery of tax.

92. (*1*) If the person liable for the payment of any tax does not, within thirty days from the service of the notice of demand, pay the amount due, or show sufficient cause for non-payment of the same to the satisfaction of the Executive Officer, such sum, with all costs of recovery, may be recovered under a warrant, issued in the form set forth in Schedule II, by distress and sale of the moveable property of the defaulter :

Provided that the Executive Officer shall not recover any sum the liability for which has been remitted on appeal under this Chapter.

(*2*) Every warrant issued under this section shall be signed by the Executive Officer.

Distress.

93. (*1*) It shall be lawful for any servant of the Cantonment Authority to whom a warrant issued under section 92 is addressed to distrain, wherever it may be found, any moveable property of the person therein

named as defaulter, subject to the following conditions, exceptions and exemptions, namely —

(*a*) the following property shall not be distrained —

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) tools of artisans,

(iii) books of account, or

(iv) when the defaulter is an agriculturist, his implements of husbandry, seed grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood

(*b*) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which, in the opinion of the Executive Officer, should not have been distrained, it shall forthwith be returned

(*2*) The person charged with the execution of a warrant of distress shall forthwith make an inventory of the property which he seizes under such warrant and shall at the same time, give a written notice in the form set forth in Schedule III to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned

Disposal of distrained property.

94. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is when added to the amount to be recovered, likely to exceed its value the Executive Officer shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid

(*2*) If the warrant is not in the meantime suspended by the Executive Officer, or discharged, the property seized shall, after the expiry of the period named in the notice served under sub section (*2*) of section 93, be sold by public auction by order of the Executive Officer

(*3*) The surplus of the sale proceeds, if any, shall forthwith be credited to the cantonment fund, and notice of such credit shall be given at the same time to the person from whose possession the property was taken, and, if the same is claimed by written application to the Cantonment Authority within one year from the date of the notice, a refund thereof shall be made to such person Any surplus not claimed within one year as aforesaid shall be the property of the Cantonment Authority

(*b*) the amount, if any, in dispute in the appeal has been deposited by the appellant in the office of the Cantonment Authority.

Finality of appellate orders.

88. The order of an appellate authority confirming, setting aside or modifying an order in respect of any valuation or assessment or liability to assessment or taxation shall be final:

Provided that it shall be lawful for the appellate authority, upon application or on its own motion, to review any order passed by it in appeal if application in this behalf is made within three months from the date of the original order.

Payment and Recovery of Taxes.

Time and manner of payment of taxes.

89. Save as otherwise expressly provided under this Act, any tax imposed under the provisions of this Act shall be payable on such dates and in such instalments, if any, as the Cantonment Authority may, by public notice, direct.

Presentation of bill.

90. (*1*) When any tax has become due, the Executive Officer shall cause to be presented to the person liable for the payment thereof a bill for the amount due.

(*2*) Every such bill shall specify the particulars of the tax and the period for which the charge is made.

Notice of demand.

91. (*1*) If the amount of the tax for which any bill has been presented is not paid to the Cantonment Authority within thirty days from the presentation thereof, the Executive Officer may cause to be served upon the person liable for the payment of the same a notice of demand in the form set forth in Schedule I.

(*2*) For every notice of demand which the Executive Officer causes to be served on any person under this section, a fee of such amount, not exceeding one rupee, as shall in each case be fixed by the Executive Officer, shall be payable by the said person and shall be included in the costs of recovery.

Recovery of tax.

92. (*1*) If the person liable for the payment of any tax does not, within thirty days from the service of the notice of demand, pay the amount due, or show sufficient cause for non-payment of the same to the satisfaction of the Executive Officer, such sum, with all costs of recovery, may be recovered under a warrant, issued in the form set forth in Schedule II, by distress and sale of the moveable property of the defaulter:

Provided that the Executive Officer shall not recover any sum the liability for which has been remitted on appeal under this Chapter.

(*2*) Every warrant issued under this section shall be signed by the Executive Officer.

Distress.

93. (*1*) It shall be lawful for any servant of the Cantonment Authority to whom a warrant issued under section 92 is addressed to distrain, wherever it may be found, any moveable property of the person therein

named as defaulter, subject to the following conditions, exceptions and exemptions, namely —

(*a*) the following property shall not be distrained —

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) tools of artisans,

(iii) books of account, or

(iv) when the defaulter is an agriculturist, his implements of husbandry, seed grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood,

(*b*) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which in the opinion of the Executive Officer, should not have been distrained, it shall forthwith be returned

(2) The person charged with the execution of a warrant of distress shall forthwith make an inventory of the property which he seizes under such warrant and shall, at the same time, give a written notice in the form set forth in Schedule III to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned

Disposal of distrained property.

94 (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Executive Officer shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once, and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid

(*2*) If the warrant is not in the meantime suspended by the Executive Officer, or discharged, the property seized shall, after the expiry of the period named in the notice served under sub section (*2*) of section 93, be sold by public auction by order of the Executive Officer

(*3*) The surplus of the sale proceeds, if any, shall forthwith be credited to the cantonment fund, and notice of such credit shall be given at the same time to the person from whose possession the property was taken, and, if the same is claimed by written application to the Cantonment Authority within one year from the date of the notice, a refund thereof shall be made to such person Any surplus not claimed within one year as aforesaid shall be the property of the Cantonment Authority

(4) For every distraint made under this Chapter a fee of such amount, not exceeding one rupee, as shall in each case be fixed by the Executive Officer shall be charged, and the said fee shall be included in the costs of recovery.

Recovery from a person about to leave cantonment.

95. (1) If the Executive Officer has reason to believe that any person from whom any sum is due on account of any tax is about to remove from the cantonment, he may direct the immediate payment by such person of the sum so due or about to become due, and cause a bill for the same to be served on such person.

(2) If, on the service of such bill, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress and sale in the manner hereinbefore provided in this Chapter, except that it shall not be necessary to serve upon the defaulter any notice of demand and the warrant for distress and sale may be issued and executed without any delay.

Power to institute suit for recovery.

96. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided in this Chapter, or after a defaulter has been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, from such defaulter on account of a tax may be recovered from him by a suit in any Court of competent jurisdiction.

Special Provisions relating to Taxation.

Power to prohibit or exempt from taxation.

97. Every Cantonment Authority shall be deemed to be a Municipal Committee for the purposes of the Municipal Taxation Act, 1881. **XI of 1881.**

Power to make special provision for conservancy in certain cases.

98. A Cantonment Authority may make special provision for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, and may fix a special rate and the dates and other conditions for periodical payment thereof, which shall be determined by a written agreement with the person liable for the payment of the conservancy or scavenging tax in respect of such factory, hotel, club or group of buildings or lands :

Provided that, in fixing the amount, proper regard shall be had to the probable cost to the Cantonment Authority of the services to be rendered.

Exemption in the case of buildings.

99. (1) When, in pursuance of section 98, a Cantonment Authority has fixed a special rate for the cleansing of any factory, hotel, club or group of buildings or lands, such premises shall be exempted from the payment of any conservancy or scavenging tax imposed in the cantonment.

(Chapter V—Taxation)

(2) The following buildings and lands shall be exempt from any tax on property, namely —

(a) places set apart for public worship and either actually so used or used for no other purpose,

(b) buildings used for educational purposes and public libraries, play grounds and dharmsalas which are open to the public and from which no income is derived,

(c) hospitals and dispensaries maintained wholly by charitable contributions,

(d) burning and burial grounds, not being the property of Government or a Cantonment Authority, which are controlled under the provisions of this Act,

(e) buildings or lands vested in a Cantonment Authority, and

(f) any buildings or lands, used or acquired for the public service or for any public purpose which are the property of, or in the occupation of, the Government

[1][**99A.** The Local Government may, by notification in the local official Gazette, exempt either wholly or in part from the payment of any tax imposed under this Act, any person or class of persons or any property or goods or class of property or goods ~~belonging to the Secretary of State for India in Council~~] General power of exemption

100. A Cantonment Authority may exempt, for a period not exceeding one year at a time from the payment of any tax or any portion of a tax imposed under this Act, any person who is in its opinion by reason of poverty unable to pay the same Exemption of poor persons

101 (1) A Cantonment Authority may, with the previous sanction of the [2][Officer Commanding in Chief the Command] allow any person to compound for any tax Composition

(2) Every sum due by reason of the composition of a tax under sub section (1) shall be recoverable as if it were a tax

102 A Cantonment Authority may write off any sum due on account of any tax or of the costs of recovering any tax if such sum is in its opinion, irrecoverable Irrecoverable debts

103. (1) The Executive Officer may, by written notice, call upon any inhabitant of the cantonment to furnish such information as may be necessary for the purpose of ascertaining— Obligation *to disclose* liability

(a) whether such inhabitant is liable to pay any tax imposed under this Act,

(b) at what amount he should be assessed, or

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1 This section was inserted by s 7 of the Cantonments (Amendment) Act 1926 (35 of 1926)

2 These words were substituted by s 2 *ibid*

(*c*) the annual value of the building or land which he occupies and the name and address of the owner or lessee thereof.

(*2*) If any person, when called upon under sub-section (*1*) to furnish information, neglects to furnish it or furnishes information which is not true to the best of his knowledge or belief, he shall be punishable with fine which may extend to one hundred rupees.

Immaterial error not to affect liability.

104. No assessment and no charge or demand on account of any tax or fee shall be impeached or affected by reason only of any mistake in the name of any person liable to pay such tax or fee, or in the description of any property or thing, or any mistake in the amount of the assessment, charge or demand, if the directions contained in this Act and the rules and bye-laws made thereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such mistake shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

Distraint not to be invalid by reason of immaterial defect.

105. No distress levied under this Chapter shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account only of any defect of form in the notice of demand, warrant of distress or other proceeding relating thereto; nor shall any such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but any person who sustains any special damage by reason of any such irregularity shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

CHAPTER VI.

CANTONMENT FUND AND PROPERTY.

Cantonment Fund.

Cantonment fund.

106. There shall be formed for every cantonment a cantonment fund, and there shall be placed to the credit thereof the following sums, namely :—

(*a*) the balance, if any, of the cantonment fund formed for the cantonment under the Cantonments Act, 1910, **XV of 1910.**

(*b*) all sums received by or on behalf of the Cantonment Authority, and

(*c*) subject to any deductions made under section 545 of the Code of Criminal Procedure, 1898, or under any other law for the **V of 1898.** time being in force, or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment—

(i) under this Act or any rule or bye-law made thereunder, or

(ii) under section 34 of the Police Act, 1861, or under any **V of 1861.** corresponding enactment for the time being in force, or

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(iii) under Chapter XIII or Chapter XIV of the Indian Penal Code, or

(iv) under section 156 of the Army Act, or

(v) under the provisions of any enactment wherein or whereunder provision is made for a fine being credited to the cantonment fund or

(vi) under any other enactment for the time being in force in respect of which the Governor General in Council may, by general or special order, direct that fines realised thereunder shall be credited to the cantonment fund

107. (*1*) Where in or near a cantonment there is a Government treasury or sub treasury, or a branch of the Imperial Bank of India, the cantonment fund shall be kept in such treasury, sub treasury or bank, as the case may be

Custody of cantonment fund

(*2*) Where there is no such treasury, sub treasury or bank, the cantonment fund may be deposited with any bank to which the Government treasury business has been entrusted, and, in the absence of such a bank, with any banker or person acting as a banker who has given such security for the safe custody of the fund and the payment on demand of the funds so deposited as the Local Government may in each case direct

[1][(*3*) A Cantonment Authority may, from time to time, with the previous sanction of the Local Government, invest any portion of its cantonment fund in securities of the Government of India or in such other securities, including fixed deposits in banks, as the Local Government may approve in this behalf, and may dispose of such investments or vary them for others of a like nature]

(*4*) The income resulting from any fixed deposit or from any such security as is referred to in sub section (*3*) or from the proceeds of the sale of any such security shall be credited to the cantonment fund

Property

108 Subject to any special reservation made by the Governor General in Council or the Local Government, all property of the nature hereinafter in this section specified which has been acquired or provided or is maintained by a Cantonment Authority shall vest in and belong

Property

1 This sub section was substituted by s. 12 of the Cantonments (Amendment) Act, 1927 (26 of 1927)

to that Cantonment Authority, and shall be under its direction, management and control, that is to say,—

(*a*) all markets, slaughter-houses, manure and nightsoil depôts, and buildings of every description;

(*b*) all water-works for the supply, storage or distribution of water for public purposes and all bridges, buildings, engines, materials, and things connected therewith or appertaining thereto;

(*c*) all sewers, drains, culverts and water-courses, and all works, materials and things appertaining thereto;

(*d*) all dust, dirt, dung, ashes, refuse, animal matter, filth and rubbish of every kind, and dead bodies of animals collected by the Cantonment Authority from the streets, houses, privies, sewers, cess-pools or elsewhere, or deposited in places appointed by the Cantonment Authority for such purpose;

(*e*) all lamps and lamp-posts and apparatus connected therewith or appertaining thereto;

(*f*) all land or other property transferred to the Cantonment Authority by His Majesty, or by gift, purchase or otherwise for local public purposes; and

(*g*) all streets and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements, and things existing on or appertaining to streets.

Application of cantonment fund and property.

109. The cantonment fund and all property vested in a Cantonment Authority shall be applied for the purposes, whether express or implied, for which, by or under this Act or any other law for the time being in force, powers are conferred or duties or obligations are imposed upon the Cantonment Authority:

Provided that the Cantonment Authority shall not incur any expenditure for acquiring or renting land beyond the limits of the cantonment or for constructing any work beyond such limits except—

(*a*) with the sanction of the Local Government, and

(*b*) on such terms and conditions as the Local Government may impose:

Provided, further, that priority shall be given in the order hereinafter set forth to the following liabilities and obligations of a Cantonment Authority, that is to say,—

(*a*) to the liabilities and obligations arising from a trust legally imposed upon or accepted by the Cantonment Authority;

(*b*) to the repayment of, and the payment of interest on, any loan incurred under the provisions of the Local Authorities Loans Act, 1914; IX of 1914.

(c) to the payment of establishment charges,

(d) to the payment of such expenses on account of pauper lunatics sent from the cantonment to public lunatic asylums and mental hospitals as the Local Government directs the Cantonment Authority to pay, and

(e) to the payment of any sum the payment of which is expressly required by the provisions of this Act or any rule or bye-law made thereunder

Acquisition of immoveable property

110. When there is any hindrance to the permanent or temporary acquisition upon payment of any land required by a Cantonment Authority for the purposes of this Act, the Local Government may, at the request of the Cantonment Authority, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, and, on payment by the Cantonment Authority of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Cantonment Authority

I of 1894.

Power to make rules regarding cantonment fund and property

111. The Governor General in Council may make rules[1] consistent with this Act to provide for all or any of the following matters, namely —

(a) the conditions on which property may be acquired by Cantonment Authorities or on which property vested in a Cantonment Authority may be transferred by sale, mortgage, lease, exchange or otherwise, and

(b) any other matter relating to the cantonment fund or cantonment property in respect of which no provision or insufficient provision is made by or under this Act, and provision is in the opinion of the Governor General in Council, necessary

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CHAPTER VII

CONTRACTS

Contracts by whom to be executed

112 Subject to the provisions of this Chapter, every Cantonment Authority shall be competent to enter into and perform any contract necessary for the purposes of this Act

Sanction

113. (1) Every contract—

(a) for which budget provision does not exist, or

(b) which involves a value or amount exceeding one hundred rupees,

shall require the sanction of the Cantonment Authority

(2) Every contract other than a contract such as is referred to in sub-section (1) shall be sanctioned by the Cantonment Authority or by the Executive Officer on behalf of the Cantonment Authority

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[1] For such rules *see* Gen R & O, Vol V, p 467

Execution of contracts.

114. (*1*) Every contract made by or on behalf of a Cantonment Authority, the value or amount of which exceeds fifty rupees, shall be in writing, and every such contract shall, where there is a Board, be signed by two members, of whom the President or the Vice-President shall be one, and be countersigned by the Executive Officer and be sealed with the common seal of the Board, or, where there is no Board, be signed by the [1][Officer Commanding the station] and be sealed with the official seal of the Cantonment Authority:

Provided that, where there is a Board, the Executive Officer may in a case of urgency, with the previous sanction of the President of the Board, execute on behalf of the Board any contract the value or amount of which does not exceed two hundred rupees.

(*2*) Where an Executive Officer executes a contract on behalf of a Board under sub-section (*1*), he shall submit a report of his action and of the reasons therefor to the Board at its next meeting.

Contracts improperly executed not to be binding on a Cantonment Authority.

115. If any contract is executed by or on behalf of a Cantonment Authority otherwise than in conformity with the provisions of this Chapter, it shall not be binding on the Cantonment Authority.

CHAPTER VIII.

DUTIES AND DISCRETIONARY FUNCTIONS OF CANTONMENT AUTHORITIES.

Duties of Cantonment Authority.

116. It shall be the duty of every Cantonment Authority, so far as the funds at its disposal permit, to make reasonable provision within the cantonment for—

(*a*) lighting streets and other public places;

(*b*) watering streets and other public places;

(*c*) cleansing streets, public places and drains, abating nuisances and removing noxious vegetation;

(*d*) regulating offensive, dangerous or obnoxious trades, callings and practices;

(*e*) removing, on the ground of public safety, health or convenience, undesirable obstructions and projections in streets and other public places;

(*f*) securing or removing dangerous buildings and places;

(*g*) acquiring, maintaining, changing and regulating places for the disposal of the dead;

(*h*) constructing, altering and maintaining streets, culverts, markets, slaughter-houses, latrines, privies, urinals, drains, drainage works and sewerage works;

1 These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

(i) planting and maintaining trees on roadsides and other public places;

(j) providing or arranging for a sufficient supply of pure and wholesome water, where such supply does not exist, guarding from pollution water used for human consumption, and preventing polluted water from being so used;

(k) registering births and deaths;

(l) establishing and maintaining a system of public vaccination;

(m) establishing and maintaining or supporting public hospitals and dispensaries, and providing public medical relief;

(n) establishing and maintaining primary schools,

(o) rendering assistance in extinguishing fires, and protecting life and property when fires occur,

(p) maintaining and developing the value of property vested in, or entrusted to the management of, the Cantonment Authority; and

(q) fulfilling any other obligation imposed upon it by or under this Act or any other law for the time being in force.

[1][**116A.** A Cantonment Authority may, subject to any conditions imposed by the Governor General in Council, manage any property entrusted to its management by the Governor General in Council on such terms as to the sharing of rents and profits accruing from such property as may be determined by rule made under section 280.] **Power to manage property.**

117. A Cantonment Authority may, within the cantonment, make provision for— **Discretionary functions of Cantonment Authority.**

(a) laying out in areas, whether previously built upon or not, new streets, and acquiring land for that purpose and for the construction of buildings, and compounds of buildings, to abut on such streets;

(b) constructing, establishing or maintaining public parks, gardens, offices, dairies, bathing or washing places, drinking fountains, tanks, wells and other works of public utility·

(c) reclaiming unhealthy localities;

(d) furthering educational objects by measures other than the establishment and maintenance of primary schools;

(e) taking a census and granting rewards for information which may tend to secure the correct registration of vital statistics;

(f) making a survey;

(g) giving relief on the occurrence of local epidemics by the establishment or maintenance of relief works or otherwise;

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[1] This section was inserted by s 6 of the Cantonments (Amendment) Act, 1925 (7 of 1925)

Execution of contracts.

114. (*1*) Every contract made by or on behalf of a Cantonment Authority, the value or amount of which exceeds fifty rupees, shall be in writing, and every such contract shall, where there is a Board, be signed by two members, of whom the President or the Vice-President shall be one, and be countersigned by the Executive Officer and be sealed with the common seal of the Board, or, where there is no Board, be signed by the [1][Officer Commanding the station] and be sealed with the official seal of the Cantonment Authority :

Provided that, where there is a Board, the Executive Officer may in a case of urgency, with the previous sanction of the President of the Board, execute on behalf of the Board any contract the value or amount of which does not exceed two hundred rupees.

(*2*) Where an Executive Officer executes a contract on behalf of a Board under sub-section (*1*), he shall submit a report of his action and of the reasons therefor to the Board at its next meeting.

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(*e*) removing, on the ground of public safety, health or convenience, undesirable obstructions and projections in streets and other public places;

(*f*) securing or removing dangerous buildings and places;

(*g*) acquiring, maintaining, changing and regulating places for the disposal of the dead;

(*h*) constructing, altering and maintaining streets, culverts, markets, slaughter-houses, latrines, privies, urinals, drains, drainage works and sewerage works;

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[1] These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

(Chapter VIII —Duties and Discretionary Functions of Cantonment Authorities)

(*i*) planting and maintaining trees on roadsides and other public places,

(*j*) providing or arranging for a sufficient supply of pure and wholesome water, where such supply does not exist, guarding from pollution water used for human consumption, and preventing polluted water from being so used

(*k*) registering births and deaths

(*l*) establishing and maintaining a system of public vaccination,

(*m*) establishing and maintaining or supporting public hospitals and dispensaries, and providing public medical relief,

(*n*) establishing and maintaining primary schools,

(*o*) rendering assistance in extinguishing fires and protecting life and property when fires occur,

(*p*) maintaining and developing the value of property vested in, or entrusted to the management of the Cantonment Authority, and

(*q*) fulfilling any other obligation imposed upon it by or under this Act or any other law for the time being in force

Power to manage property.

[1][**116A.** A Cantonment Authority may, subject to any conditions imposed by the Governor General in Council, manage any property entrusted to its management by the Governor General in Council on such terms as to the sharing of rents and profits accruing from such property as may be determined by rule made under section 280]

Discretionary functions of Cantonment Authority.

117. A Cantonment Authority may, within the cantonment, make provision for—

(*a*) laying out in areas, whether previously built upon or not, new streets, and acquiring land for that purpose and for the construction of buildings, and compounds of buildings, to abut on such streets,

(*b*) constructing, establishing or maintaining public parks, gardens, offices, dairies, bathing or washing places, drinking fountains, tanks, wells and other works of public utility,

(*c*) reclaiming unhealthy localities,

(*d*) furthering educational objects by measures other than the establishment and maintenance of primary schools,

(*e*) taking a census and granting rewards for information which may tend to secure the correct registration of vital statistics,

(*f*) making a survey,

(*g*) giving relief on the occurrence of local epidemics by the establishment or maintenance of relief works or otherwise,

1 This section was inserted by s 6 of the Cantonments (Amendment) Act, 1925 (7 of 1925)

(*h*) securing or assisting to secure suitable places for the carrying on of any offensive, dangerous or obnoxious trade, calling or occupation;

(*i*) establishing and maintaining a farm or other place for the disposal of sewage;

(*j*) constructing, subsidising or guaranteeing tramways or other means of locomotion. and electric lighting or electric power works;

(*k*) adopting any measure, other than a measure specified in section 116 or in the foregoing provisions of this section, likely to promote the safety, health or convenience of the inhabitants of the cantonment; or

(*l*) the doing of anything on which expenditure is declared by the Local Government, or by the Cantonment Authority, with the sanction of the Local Government, to be an appropriate charge on the cantonment fund.

Power of expenditure for educational purposes outside the cantonment.

1[**117A.** A Cantonment Authority may make provision for educational objects outside the cantonment if it is satisfied that the interests of the residents of the cantonment will be served thereby.]

CHAPTER IX.

PUBLIC SAFETY AND SUPPRESSION OF NUISANCES

General Nuisances

Penalty for causing nuisances.

118. (*1*) Whoever—

(*a*) in any street or other public place within a cantonment,—

(i) is drunk and disorderly or drunk and incapable of taking care of himself; or

(ii) uses any threatening, abusive or insulting words, or behaves in a threatening or insulting manner with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be occasioned; or

(iii) eases himself, or wilfully or indecently exposes his person; or

(iv) loiters, or begs importunately, for alms; or

(v) exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound; or

(vi) carries meat exposed to public view; or

(vii) is found gaming; or

(viii) pickets, animals, or collects carts; or

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1 This section was inserted by s. 8 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

(Chapter IX.—Public Safety and Suppression of Nuisances)

(ix) being engaged in the removal of night-soil or other offensive matter or rubbish, wilfully or negligently permits any portion thereof to spill or fall, or neglects to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place, or

(x) without proper authority affixes upon any building, monument, post, wall, fence, tree or other thing, any bill, notice or other document, or

(xi) without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing, or

(xii) without proper authority removes, destroys, defaces or otherwise obliterates any notice or other document put up or exhibited under this Act, or

(xiii) without proper authority displaces, damages, or makes any alteration in, or otherwise interferes with, the pavement, gutter, stormwater drain, flags or other materials of any such street, or any lamp, bracket, direction post, hydrant or water-pipe maintained by the Cantonment Authority in any such street or public place, or extinguishes a public light, or

(xiv) carries any corpse not decently covered or without taking due precautions to prevent risk of infection or injury to the public health or annoyance to passers by or to persons dwelling in the neighbourhood, or

(xv) carries night soil or other offensive matter or rubbish at any hour prohibited by the Cantonment Authority by public notice, or in any pattern of cart or receptacle which has not been approved for the purpose by the Cantonment Authority, or fails to close such cart or receptacle when in use, or

(b) carries night soil or other offensive matter or rubbish along any route in contravention of any prohibition made in this behalf by the Cantonment Authority by public notice, or

(c) deposits, or causes or permits to be deposited, earth or materials of any description, or any offensive matter or rubbish, in any place not intended for the purpose in any street or other public place or waste or unoccupied land under the management of the Cantonment Authority; or

(d) having charge of a corpse fails to bury, burn or otherwise lawfully dispose of the same within twenty four hours after death; or

(e) makes any grave or buries or burns any corpse in any place not set apart for such purpose; or

(*h*) securing or assisting to secure suitable places for the carrying on of any offensive, dangerous or obnoxious trade, calling or occupation;

(*i*) establishing and maintaining a farm or other place for the disposal of sewage;

(*j*) constructing, subsidising or guaranteeing tramways or other means of locomotion, and electric lighting or electric power works;

(*k*) adopting any measure, other than a measure specified in section 116 or in the foregoing provisions of this section, likely to promote the safety, health or convenience of the inhabitants of the cantonment; or

(*l*) the doing of anything on which expenditure is declared by the Local Government, or by the Cantonment Authority, with the sanction of the Local Government, to be an appropriate charge on the cantonment fund.

Power of expenditure for educational purposes outside the cantonment.

[1][**117A.** A Cantonment Authority may make provision for educational objects outside the cantonment if it is satisfied that the interests of the residents of the cantonment will be served thereby.]

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(i) is drunk and disorderly or drunk and incapable of taking care of himself; or

(ii) uses any threatening, abusive or insulting words, or behaves in a threatening or insulting manner with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be occasioned; or

(iii) eases himself, or wilfully or indecently exposes his person; or

(iv) loiters, or begs importunately, for alms; or

(v) exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound; or

(vi) carries meat exposed to public view; or

(vii) is found gaming; or

(viii) pickets,animals, or collects carts; or

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[1] This section was inserted by s. 8 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

(ix) being engaged in the removal of night soil or other offensive matter or rubbish, wilfully or negligently permits any portion thereof to spill or fall, or neglects to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place, or

(x) without proper authority affixes upon any building, monument, post, wall, fence, tree or other thing, any bill, notice or other document, or

(xi) without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing, or

(xii) without proper authority removes, destroys, defaces or otherwise obliterates any notice or other document put up or exhibited under this Act, or

(xiii) without proper authority displaces, damages, or makes any alteration in, or otherwise interferes with, the pavement, gutter, stormwater drain, flags or other materials of any such street, or any lamp, bracket, direction post, hydrant or water pipe maintained by the Cantonment Authority in any such street or public place, or extinguishes a public light, or

(xiv) carries any corpse not decently covered or without taking due precautions to prevent risk of infection or injury to the public health or annoyance to passers by or to persons dwelling in the neighbourhood, or

(xv) carries night soil or other offensive matter or rubbish at any hour prohibited by the Cantonment Authority by public notice, or in any pattern of cart or receptacle which has not been approved for the purpose by the Cantonment Authority, or fails to close such cart or receptacle when in use, or

(*b*) carries night soil or other offensive matter or rubbish along any route in contravention of any prohibition made in this behalf by the Cantonment Authority by public notice, or

(*c*) deposits, or causes or permits to be deposited, earth or materials of any description, or any offensive matter or rubbish, in any place not intended for the purpose in any street or other public place or waste or unoccupied land under the management of the Cantonment Authority; or

(*d*) having charge of a corpse fails to bury, burn or otherwise lawfully dispose of the same within twenty-four hours after death; or

(*e*) makes any grave or buries or burns any corpse in any place not set apart for such purpose; or

(Chapter IX.—Public Safety and Suppression of Nuisances.)

(*f*) keeps or uses, or knowingly permits to be kept or used, any place as a common gaming house, or assists in conducting the business of any common gaming house; or

(*g*) at any time or place at which the same has been prohibited by the Cantonment Authority by public or special notice, beats a drum or tom-tom, or blows a horn or trumpet, or beats any utensil, or sounds any brass or other instrument, or plays any music; or

(*h*) disturbs the public peace or order by singing, screaming or shouting; or

(*i*) lets loose any animal so as to cause, or negligently allows any animal to cause, injury, danger, alarm or annoyance to any person; or

(*j*) being the occupier of any building or land in or upon which an animal dies, neglects within three hours of the death of the animal, or, if the death occurs at night, within three hours after sunrise, either—

(i) to report the occurrence to the Executive Officer or to an officer, if any, appointed by him in this behalf with a view to securing the removal and disposal of the carcase by the public conservancy establishment; or

(ii) to remove and dispose of the carcase in accordance with any general directions given by the Cantonment Authority by public notice or any special directions given by the Executive Officer on receipt of such report as aforesaid; or

(*k*) save with the written permission of the Cantonment Authority and in such manner as it may authorise, stores or uses night-soil, manure, rubbish or any other substance emitting an offensive smell; or

(*l*) uses or permits to be used as a latrine any place not intended for that purpose;

shall be punishable with fine which may extend to fifty rupees.

(2) Whoever does not take reasonable means to prevent any child under the age of twelve years being in his charge from easing himself in any street or other public place within the cantonment shall be punishable with fine which may extend to twenty-five rupees.

(3) The owner or keeper of any animal found picketed or straying without a keeper in a street or other public place in a cantonment shall be punishable with fine which may extend to twenty rupees.

(4) Any animal found picketed as aforesaid may be removed by any officer or servant of the Cantonment Authority or by any police officer to a pound as if the animal had been found straying.

(Chapter IX —Public Safety and Suppression of Nuisances)

Dogs

119 (*1*) A Cantonment Authority may make bye laws to provide for the registration of all dogs kept within the cantonment

Registration and control of dogs

(*2*) Such bye laws shall—

(*a*) require the registration, by the Officer Commanding each military unit, of all dogs kept in the lines occupied by that unit,

(*b*) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registration authority, and fix the fee payable for the issue thereof,

(*c*) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place be detained at a place set apart for the purpose, and

(*d*) fix the fee which shall be charged for such detention and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week,

and may provide for such other matters as the Cantonment Authority thinks fit

(*3*) A Cantonment Authority may—

(*a*) cause to be destroyed, or to be confined for such period as that Authority may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies,

(*b*) by public notice direct that after such date as may be specified in the notice dogs which are without collars or without marks distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners if any may be destroyed and cause them to be destroyed accordingly

(*4*) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section

(*5*) Whoever, being the owner or person in charge of any dog, neglects to restrain it so that it shall not be at large in any street without being muzzled and without being secured by a chain lead in any case in which—

(*a*) he knows that the dog is likely to annoy or intimidate any person, or

(*b*) the Cantonment Authority has by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles and chain leads,

shall be punishable with fine which may extend to one hundred rupees

(6) Whoever in a cantonment—

(a) allows any ferocious dog which belongs to him or is in his charge to be at large without being muzzled, or

(b) sets on or urges any dog or other animal to attack, worry or intimidate any person, or

(c) knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by an animal suffering or reasonably suspected to be suffering from rabies, neglects to give immediate information of the fact to the Executive Officer or gives information which is false,

shall be punishable with fine which may extend to two hundred rupees.

Traffic.

Rule of the road.

120. Whoever in driving, leading or propelling a vehicle along a street fails, except in a case of actual necessity,—

(a) to keep to the left when passing a vehicle coming from the opposite direction, or

(b) to keep to the right when passing a vehicle going in the same direction as himself,

shall be punishable with fine which may extend to fifty rupees.

Prevention of Fire, etc.

Use of inflammable materials for building purposes.

121. (1) A Cantonment Authority may, by public notice, direct that within such limits in the cantonment as may be specified in the notice, the roofs and external walls of huts or other buildings shall not, without the permission in writing of the Cantonment Authority, be made or renewed of grass, mats, leaves or other inflammable materials, and may, by notice in writing, require any person who has disobeyed any such direction as aforesaid to remove or alter the roofs or walls so made or renewed.

(2) A Cantonment Authority may, by notice in writing, require the owner of any building in the cantonment which has an external roof or wall made of any such material as aforesaid to remove such roof or wall within such time as may be specified in the notice, notwithstanding that a public notice under sub-section (1) has not been issued or that such roof or wall was made with the consent of the Cantonment Authority or before the issue of such public notice:

Provided that, in the case of any such roof or wall in existence before the issue of such a public notice or made with the consent of the Cantonment Authority, that authority shall make compensation, not exceeding the original cost of constructing the roof or wall, for any damage caused by the removal.

(Chapter IX —Public Safety and Suppression of Nuisances)

122. A Cantonment Authority may, by public notice, prohibit in any case where such prohibition appears to it to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials, or the placing of mats or thatched huts or the lighting of fires in any place in the cantonment, or within any limits therein, which may be specified in the notice

Stacking or collecting inflammable materials

123. No person shall set a naked light on or near any building in any street or other public place in a cantonment in such manner as to cause danger of fire

Care of naked lights.

Provided that nothing in this section shall be deemed to prohibit the use, subject to the permission in writing of the Cantonment Authority, of lights for purposes of illumination on the occasion of a festival or public or private entertainment

124. (*1*) Notwithstanding anything contained in the Cinematograph Act, 1918, no exhibition of pictures or other optical effects by means of a cinematograph or other like apparatus for the purpose of which inflammable films are used, and no public dramatic performance or pantomime shall be given in any cantonment elsewhere than in premises for which a licence has been granted by the Cantonment Authority under this section

1918.

Regulation of cinematograph. io and dramatic performances

(*2*) If the owner of a cinematograph or other apparatus uses the apparatus or allows it to be used or if any person takes any part in any public dramatic performance or pantomime, in contravention of the provisions of this section, or if the occupier of any premises allows them to be used in contravention of the provisions of this section or of any condition of any licence granted under this section, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to fifty rupees for each day after the first during which the offence continues

(*3*) Nothing in this section shall be deemed to prohibit the giving of any exhibition or any dramatic performance or pantomime in any theatre or institute which is the property of Government where the exhibition, performance or pantomime is held with the permission and under the control of the military authorities

125. Whoever in a cantonment discharges any fire-arm or lets off fire-works or fire balloons, or engages in any game in such manner as to cause or to be likely to cause danger to persons passing by or dwelling or working in the neighbourhood or risk of injury to property shall be liable to fine which may extend to fifty rupees

Discharging fire-works, fire-arms, etc

126. Where in a cantonment any building, or wall, or any thing affixed thereto, or any well, tank, reservoir, pool, depression, or excavation, or any bank or tree, is, in the opinion of the Cantonment

Power to require buildings, wells, etc.

to be rendered safe.

Authority, [1][in a ruinous state or], for want of sufficient repairs, protection or enclosure, [1][a nuisance or] dangerous to persons passing by or dwelling or working in the neighbourhood, the Cantonment Authority may, by notice in writing, require the owner thereof [1][either to remove the same or] to repair, protect or enclose the same in such manner as it thinks necessary; and, if the danger is, in the opinion of the Cantonment Authority, imminent, it shall forthwith take such steps as it thinks necessary to avert the same.

Enclosure of waste land used for improper purposes.

127. A Cantonment Authority may, by notice in writing, require the owner or part owner, or person claiming to be the owner or part owner, of any building or land in the cantonment, or the lessee or the person claiming to be the lessee of any such land, which, by reason of disuse or disputed ownership or other cause, has remained unoccupied and has become the resort of idle and disorderly persons or of persons who have no ostensible means of subsistence or cannot give a satisfactory account of themselves, or is used for gaming or immoral purposes, or otherwise occasions or is likely to occasion a nuisance, to secure and enclose the same within such time as may be specified in the notice.

CHAPTER X.

SANITATION AND THE PREVENTION AND TREATMENT OF DISEASE.

Sanitary Authorities.

Responsibility for sanitation.

128. The following officers shall, for the purposes of sanitation, have control over, and be responsible for maintaining in a sanitary condition, those parts of a cantonment, respectively, which are specified in the case of each, that is to say:—

(*a*) the [2][Officer Commanding the station]—all buildings and lands which are occupied or used for military purposes;

(*b*) the Officer Commanding the air forces in the cantonment—all buildings and lands which are occupied or used for air-force purposes;

(*c*) the head of any civil department or railway administration occupying as such any part of the cantonment—all buildings and lands in his charge as head of that department or administration.

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1 These words were inserted by s. 7 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

2 These words were substituted by s. 14, *ibid.*

(Chapter X.—Sanitation and the Prevention and Treatment of Disease.)

General duties of Health Officer

129. *(1)* The Health Officer shall exercise a general sanitary supervision over the whole cantonment, and shall submit monthly to the Cantonment Authority a report as to the sanitary condition of the cantonment, together with such recommendations in connection therewith as he thinks fit.

(2) The Assistant Health Officer shall perform such duties in connection with the sanitation of the cantonment as are, subject to the control of the Cantonment Authority, allotted to him by the Health Officer.

Conservancy and Sanitation

Public latrines, urinals, and conservancy establishments

130. All public latrines and urinals provided or maintained by a Cantonment Authority shall be so constructed as to provide separate compartments for each sex and not to be a nuisance, and shall be provided with all necessary conservancy establishments, and shall regularly be cleansed and kept in proper order.

Power of Cantonment Authority to undertake private conservancy arrangements

131. *(1)* On the application or with the consent of the occupier of any building or land, or where the occupier of any building or land fails to make arrangements to the satisfaction of the Cantonment Authority for the matters referred to in this section without such consent, and after giving notice in writing to the occupier, a Cantonment Authority may undertake the house scavenging of any building or land in the cantonment for such period as it thinks fit on such terms as it may prescribe in this behalf.

(2) Where the Cantonment Authority has undertaken the duties referred to in this section, all matter removed in the performance of such duties shall be the property of that Authority.

(3) For the purposes of this section, "house scavenging" means the removal of filth or rubbish or other offensive matter from a privy, latrine, urinal, drain, cesspool, or other common receptacle for such matter.

Deposit and disposal of rubbish etc

132. *(1)* Every Cantonment Authority shall provide or appoint, in proper and convenient situations, public receptacles, depôts or places for the temporary deposit or disposal of household rubbish, offensive matter, carcases of dead animals and sewage.

(2) The Cantonment Authority may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section *(1)* may be removed along a street or may be deposited or otherwise disposed of.

(3) All matter deposited in receptacles, depôts or places provided or appointed under this section shall be the property of the Cantonment Authority.

Cesspools, receptacles for filth, etc.

133. The Executive Officer of any cantonment may, by notice in writing,—

(*a*) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(i) to close any cesspool appertaining to the land or building which is, in the opinion of the Executive Officer, a nuisance, or

(ii) to keep in a clean condition, in such manner as may be prescribed by the notice, any receptacle for filth or sewage accumulating on the land or in the building, or

(iii) to prevent the water of any private latrine, urinal, sink or bath-room, or any other offensive matter, from soaking, draining or flowing, or being put, from the land or building upon any street or other public place, or into any water-course or into any drain not intended for the purpose; or

(iv) to collect and deposit for removal by the conservancy establishment of the Cantonment Authority, within such time and in such receptacle or place, situate at not more than one hundred feet from the nearest boundary of the premises, as may be specified in the notice, any offensive matter or rubbish which such person has allowed to accumulate or remain under, in or on such building or land; or

(*b*) require any person to desist from making or altering any drain leading into a public drain; or

(*c*) require any person having the control of a drain in the cantonment to cleanse, purify, repair or alter the same, or otherwise put it in good order, within such time as may be specified in the notice.

Filling up of tank, etc.

134. (*1*) Where any well, tank, cistern, reservoir, receptacle, or other place in the cantonment where water is stored or accumulates, whether within any private enclosure or not, is in such a condition as to create a nuisance or, in the opinion of the Health Officer, or the Assistant Health Officer, is or is likely to be a breeding place for mosquitoes, the Cantonment Authority, may, by notice in writing, require the owner, lessee or occupier thereof within such period as may be specified in the notice, to fill up or cover the well, cistern, reservoir or receptacle, or to fill up the tank, or to drain off or remove the water, as the case may be.

(*2*) The Cantonment Authority may, if it thinks fit, with the previous sanction of the [1][Officer Commanding-in-Chief, the Command],

1 These words substituted by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

meet the whole or any portion of the expenses incurred in complying with a requisition under sub-section (1).

Provision of latrines, etc.

135. A Cantonment Authority may, by notice in writing, require the owner or lessee of any building or land in the cantonment to provide, in such manner as may be specified in the notice, any latrine, urinal, cesspool, dust bin or other receptacle for filth, sewage, or rubbish, or any additional latrine, urinal, cesspool or other receptacle as aforesaid, which should, in its opinion, be provided for the building or land.

Sanitation in factories, etc.

136. Every person employing, whether on behalf of the Government or otherwise, more than ten workmen or labourers, and every person managing or having control of a market, school, theatre or other place of public resort, in a cantonment shall give notice of the fact to the Cantonment Authority, and shall provide such latrines and urinals, and shall employ such number of sweepers, as the Cantonment Authority thinks fit, and shall cause the latrines and urinals to be kept clean and in proper order:

Provided that nothing in this section shall apply in the case of a factory to which the Indian Factories Act, 1911, applies. I of 1911

Private latrines

137. A Cantonment Authority may, by notice in writing,—

(a) require the owner or other person having the control of any private latrine or urinal in the cantonment not to put the same to public use; or

(b) where any plan for the construction of private latrines or urinals has been approved by the Cantonment Authority and copies thereof may be obtained free of charge on application,—

(i) require any person repairing or constructing any private latrine or urinal not to allow the same to be used until it has been inspected by or under the direction of the Health Officer and approved by him as conforming with such plan; or

(ii) require any person having control of any private latrine or urinal to re-build or alter the same in accordance with such plan; or

(c) require the owner or other person having the control of any such private latrine or urinal which in the opinion of the Cantonment Authority constitutes a nuisance to remove the latrine or urinal; or

(d) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(i) to have any latrines provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or

(ii) to cleanse in such manner as the Cantonment Authority may specify in the notice any latrine or urinal belonging to the land or building;

(e) require any person being the owner and having the control of any drain in the cantonment to provide, within ten days from the service of the notice, such covering as may be specified in the notice.

Removal of congested buildings.

138. (1) Where it appears to a Cantonment Authority that any block of buildings in the cantonment is in an unhealthy condition by reason of the manner in which the buildings are crowded together, or of the narrowness or closeness of the street, or of the want of proper drainage or ventilation, or of the impracticability of cleansing the buildings or other similar cause, it may cause the block to be inspected by a committee consisting of—

(a) the Health Officer,

(b) the Civil Surgeon of the district or, if his services are not available, some other medical officer of the Government,

(c) the Executive Engineer or a person deputed by the Executive Engineer in this behalf, and

(d) where there is a Board, two non-official members thereof.

(2) The committee shall make a report in writing to the Cantonment Authority regarding the sanitary condition of the block, and, if it considers that the condition thereof is likely to cause risk of disease to the inhabitants of the building or of the neighbourhood or otherwise to endanger the public health, it shall clearly indicate on a plan verified by the Executive Engineer or the person deputed by him to serve on the committee, the buildings which should in its opinion wholly or in part be removed in order to abate the unhealthy condition of the block.

(3) If, upon receipt of such report, the Cantonment Authority is of opinion that all or any buildings indicated should be removed, it may, by notice in writing, require the owners thereof to remove them:

Provided that the Cantonment Authority shall make compensation to the owners for any buildings so removed which may have been erected under proper authority:

Provided, further, that the Cantonment Authority may, if it considers it equitable in the circumstances so to do, pay to the owners such sum as it thinks fit as compensation for any buildings so removed which have not been erected under proper authority.

(4) For the purposes of this section "buildings" includes enclosure walls and fences appertaining to buildings.

Over-crowding of dwelling houses.

139. (1) Where it appears to a Cantonment Authority that any building or part of a building in the cantonment which is used as a dwelling house is so overcrowded as to endanger the health of the

inmates thereof, it may, after such inquiry as it thinks fit, by notice in writing require the owner or occupier of the building or part thereof, as the case may be, within such time not being less than one month as may be specified in the notice, to abate the overcrowding of the same by reducing the number of lodgers, tenants, or other inmates to such number as may be specified in the notice

(2) Any person who fails, without reasonable cause, to comply with a requisition made upon him under sub section (1) shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, to an additional fine which may extend to five rupees for every day after the first during which the failure has continued

140. (1) Where any building in a cantonment is so ill-constructed or dilapidated as to be, in the opinion of the Cantonment Authority, in an insanitary state, the Cantonment Authority may, by notice in writing, require the owner, within such time as may be specified in the notice, to execute such repairs or to make such alterations as it thinks necessary for the purpose of removing such defects

Power to require repair or alteration of building

(2) A copy of every notice issued under sub section (1) shall be conspicuously posted on the building to which it relates

(3) A notice issued under sub section (1) shall be deemed to have been complied with if the owner of the building to which it relates has, instead of executing the repairs or making the alterations directed by the notice, removed the building

141. (1) The Executive Officer may, by notice in the owner, lessee or occupier of any building or land in which appears to him to be in a filthy or insanitary state, within twenty four hours to cleanse the same or otherwise put it in a proper state, in such manner as may be specified in the notice

... to be cleansed

(2) If, within three months from the date of the service of a notice under sub section (1), any building or land in respect of which the notice was issued is again in a filthy or insanitary state, the owner, lessee or occupier, as the case may be, shall be punishable with fine which may extend to two hundred rupees

142. If a Cantonment Authority is satisfied that any building or part of a building in the cantonment which is intended for or used as a dwelling place is unfit for human habitation it may cause a notice to be posted on some conspicuous part of the building prohibiting the owner or occupier thereof from using the building or room for human habitation, or allowing it to be so used until it has been rendered fit for such use to the satisfaction of the Cantonment Authority

Power to order disuse of house

143. A Cantonment Authority may, by notice in writing, require the owner, lessee, or occupier of any land in the cantonment to clear away

Removal of noxious vegetation.

and remove any thick or noxious vegetation or undergrowth which appears to it to be injurious to health or offensive to persons residing in the neighbourhood.

Agriculture and irrigation.

144. Where, in the opinion of a Cantonment Authority, the cultivation in the cantonment of any description of crop or the use therein of any kind of manure or the irrigation of any land therein in any specified manner is likely to be injurious to the health of persons dwelling in the neighbourhood, the Cantonment Authority may, by public notice, prohibit such cultivation, use or irrigation after such date as may be specified in the notice, or may, by a like notice, direct that it shall be carried out subject to such conditions as the Cantonment Authority thinks fit:

Provided that if, when a notice is issued under this section, any land to which it relates has been lawfully prepared for cultivation or any crop is sown therein or is standing thereon, the Cantonment Authority shall, if it directs that the notice is to take effect on a date earlier than that by which the crop would ordinarily be sown or reaped, as the case may be, make compensation to all persons interested in the land or crop for the loss, if any, incurred by them respectively by reason of compliance with the notice.

Burial and Burning Grounds.

Power to call for information regarding burial and burning grounds.

145. A Cantonment Authority may, by notice in writing, require the owner or person in charge of any burial or burning ground in the cantonment to supply such information as may be specified in the notice concerning the condition, management or position of such ground.

Permission for use of new burial or burning ground.

146. (*1*) No place in a cantonment which has not been used as a burial or burning ground before the commencement of this Act shall be so used without the permission in writing of the Cantonment Authority.

(*2*) Such permission may be granted subject to any conditions which the Cantonment Authority thinks fit to impose for the purpose of preventing annoyance to, or danger to the health of, persons residing in the neighbourhood.

Power to require closing of burial or burning ground.

147. (*1*) Where a Cantonment Authority, after making or causing to be made local inquiry, is of opinion that any burial or burning ground in the cantonment has become offensive to, or dangerous to the health of, persons living in the neighbourhood, it may, with the previous sanction of the Local Government, by notice in writing, require the owner or person in charge of such ground to close the same from such date as may be specified in the notice.

(*2*) Where the Local Government sanctions the issue of any notice under sub-section (*1*), it shall declare the conditions on which the burial or burning ground may be re-opened, and a copy of such declaration shall be annexed to the notice.

(3) Where the Local Government sanctions the issue of any such notice, it shall require a new burial or burning ground to be provided at the expense of the cantonment fund, or, if the community concerned is willing to provide a new burial or burning ground the Local Government shall require a grant to be made from the cantonment fund towards the cost of the same

(4) No corpse shall be buried or burnt in any burial or burning ground in respect of which a notice issued under this section is for the time being in force

Exemption from operation of sections 145 to 147

148 The provisions of sections 145, 146 and 147 shall not apply in the case of any burial ground which is for the time being managed by or on behalf of the Government

Removal of corpses

149. A Cantonment Authority may, by public notice, prescribe routes in the cantonment by which along corpses may be removed to burial or burning grounds

Prevention of Infectious or Contagious Diseases

Obligation to give information of infectious or contagious diseases

150. Whoever, being in charge of, or in attendance, whether as a medical practitioner or otherwise, upon any person in a cantonment whom he knows or has reason to believe to be suffering from a contagious or infectious disease, or being the owner, lessee or occupier of any building in a cantonment in which he knows that any such person is so suffering shall if he fails to give information or if he gives false information, to the Cantonment Authority respecting the existence of such disease, be punishable with fine which may extend to one hundred rupees

Provided that no person shall be punishable under this section for failure to give information if he had reasonable cause to believe that the information had already been duly given

Provided further that this section shall not apply in the case of venereal disease where the person suffering therefrom is under specific and adequate medical treatment and is by reason of his habits and conditions of life and residence unlikely to spread the disease

Special measures in case of outbreak of infectious or epidemic diseases

151 (1) In the event of a cantonment being visited or threatened by an outbreak of an infectious or contagious disease among the inhabitants thereof or of any epidemic disease among any animals therein, the [1][Officer Commanding in Chief the Command] if he thinks that the provisions of this Act or of any law for the time being in force in the cantonment are insufficient for the purpose, may, with the previous sanction of the Local Government —

(a) take such special measures, and

[1] These words were substituted by s 2 of the Cantonments (Amendment) Act 1926 (35 of 1926)

(*Chapter X.—Sanitation and the Prevention and Treatment of Disease.*)

(*b*) by public notice, make such temporary regulations to be observed by the public or by any class or section of the public, as he thinks necessary to prevent the outbreak or the spread of the disease :

Provided that, where in the opinion of the [1][Officer Commanding-in-Chief, the Command,] immediate measures are necessary, he may take action without such sanction as aforesaid and, if he does so, shall forthwith report such action to the Local Government.

(*2*) Whoever commits a breach of any temporary regulation made under sub-section (*1*) shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

Power to require names of dairyman's customers.

152. Where it is certified to the Executive Officer by a medical practitioner that the outbreak or spread of any infectious or contagious disease in the cantonment is, in the opinion of such medical practitioner, attributable to the milk supplied by any dairyman, the Executive Officer may, by notice in writing, require the dairyman, within such time as may be specified in the notice, to furnish him with a full and complete list of the names and addresses of all his customers within the cantonment, or to give him such information as will enable him to trace the persons to whom the dairyman has sold milk. XLV of 1860.

Power to require names of a washerman's customers.

153. Where it is certified to the Executive Officer by the Health Officer that it is desirable, with a view to prevent the spread of any infectious or contagious disease in the cantonment, that the Health Officer should be furnished with a list of the customers of any washerman, the Executive Officer may, by notice in writing, require the washerman, within a time to be specified in the notice, to furnish the Health Officer with a full and complete list of the names and addresses of all owners within the cantonment of clothes and other articles which the washerman washes or has washed during the six weeks immediately preceding the date of the notice.

Report after inspection of dairy or washerman's place of business.

154. Where, after inspection, the Health Officer is of opinion that any infectious or contagious disease is caused or is likely to arise in the cantonment from the consumption of the milk supplied from a dairy or from the washing of clothes or other articles in any place, or from any process employed by a washerman, he shall report the matter to the Executive Officer.

Action on report submitted by Health Officer.

155. Upon receipt of a report submitted by the Health Officer under section 154, the Executive Officer may, by notice in writing,—

(*a*) prohibit the supply of milk from the dairy until the notice has been withdrawn; or

(*b*) prohibit the washerman from washing clothes or other articles in any such place or by any such process as aforesaid until the

[1] These words were substituted by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

notice has been withdrawn or unless he uses such place in such manner, or washes by such process, as the Executive Officer may direct in the notice

Examination of milk or washed clothes

156. The Health Officer may take possession of any milk, clothes or other articles which are or have recently been in the possession of any dairyman on whom a notice has been served under section 152, or of any clothes or other articles which are or have recently been in the possession of any washerman, on whom a notice has been served under section 153, and may subject the same or cause the same to be subjected to such chemical or other process as he may think necessary, and the Cantonment Authority shall pay from the cantonment fund all the costs of the process and shall also pay to the owner of the milk clothes or other articles such sum as compensation for any loss occasioned by such process as may appear to it to be reasonable

Contamination of public conveyance

157. Whoever in a cantonment—

(*a*) uses a public conveyance while suffering from an infectious or contagious disease, or

(*b*) uses a public conveyance for the carriage of a person who is suffering from any such disease, or

(*c*) uses a public conveyance for the carriage of the corpse of a person who has died from any such disease,

shall be bound to take proper precautions against the communication of the disease to other persons using or who may thereafter use the conveyance and to notify such use to the owner, driver or person in charge of the conveyance, and further to report without delay to the Executive Officer the number of the conveyance and the name of the person so notified

Disinfection of public conveyance.

158. (*1*) Where any person suffering from or the corpse of any person who has died from an infectious or contagious disease has been carried in a public conveyance which ordinarily plies in a cantonment, the driver thereof shall forthwith report the fact to the Executive Officer who shall forthwith cause the conveyance to be disinfected if that has not already been done

(*2*) No such conveyance shall be brought again into use until the Executive Officer has granted a certificate stating that it can be used without causing risk of infection

Penalty for failure to report

159. Whoever fails to make to the Executive Officer any report which he is required to make by section 157 or section 158, shall be punishable with fine which may extend to one hundred rupees

Driver of conveyance not bound to carry person suffering from

160. Notwithstanding anything contained in any law for the time being in force no owner, driver or person in charge of a public conveyance shall be bound to convey or to allow to be conveyed in such conveyance in or in the vicinity of a cantonment any person suffering from

infectious or contagious disease.

an infectious or contagious disease or the corpse of any person who has died from such disease unless and until such person pays or tenders a sum sufficient to cover any loss and expense which would ordinarily be incurred in disinfecting the conveyance.

Disinfection of building or articles therein.

161. Where a Cantonment Authority is, upon the advice of the Health Officer, of opinion that the cleansing and disinfection of any building or part of a building in the cantonment or of any articles in any such building or part which are likely to retain infection, or the renewal of the flooring of any such building or part of such building, would tend to prevent or check the spread of any infectious or contagious disease, he may, by notice in writing, require the owner or occupier to cleanse and disinfect the said building, part or articles, as the case may be, or to renew the said flooring within such time as may be specified in the notice:

Provided that where, in the opinion of the Cantonment Authority, the owner or occupier is from poverty or any other cause unable effectually to carry out any such requisition, the Cantonment Authority may, at the expense of the cantonment fund, cleanse and disinfect the building, part or articles, or, as the case may be, renew the flooring.

Destruction of infectious hut or shed.

162. (1) Where the destruction of any hut or shed in a cantonment is, in the opinion of the Cantonment Authority, necessary to prevent the spread of any infectious or contagious disease, the Cantonment Authority may, by notice in writing, require the owner to destroy the hut or shed and the materials thereof within such time as may be specified in the notice.

(2) Where the President of a Board, or, where there is no Board, the [1][Officer Commanding the station], is satisfied that the destruction of any hut or shed in the cantonment is immediately necessary for the purpose of preventing the spread of any infectious or contagious disease, he may order the owner or occupier of the hut or shed to destroy the same forthwith, or may himself cause it to be destroyed after giving not less than two hours' notice to the owner or occupier thereof.

(3) The Cantonment Authority shall pay compensation to the owner of any hut or shed destroyed under this section.

Temporary shelter for inmates of disinfected or destroyed building or shed.

163. The Cantonment Authority shall provide free of charge temporary shelter or house accommodation for the members of any family in which an infectious or contagious disease has appeared who have been compelled to leave their dwelling by reason of any proceedings taken under section 161 or section 162, and who desire such shelter or accommodation as aforesaid to be provided for them.

[1] These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

Disinfection of building before letting the same

164. (*1*) Where in a cantonment any building or part of a building is intended to be let in which any person has, within the six weeks immediately preceding, been suffering from an infectious or contagious disease, the person letting the building or part shall before doing so disinfect the same in such manner as the Cantonment Authority may, by public or special notice, direct, together with all articles therein liable to retain infection.

(*2*) For the purposes of this section, the keeper of an hotel, lodging house or sarai shall be deemed to let to any person who is admitted as a guest therein that part of the building in which such person is permitted to reside.

Disposal of infected article without disinfection

165. No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of to another person any article or thing which he knows or has reason to believe has been exposed to contamination by any infectious or contagious disease and is likely to be used in, or taken into, a cantonment.

Means of disinfection

166. (*1*) Every Cantonment Authority shall—

(*a*) provide proper places with necessary attendants and apparatus for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection;

(*b*) cause conveyances, clothing or other articles brought for disinfection to be disinfected either free of charge or on payment of such charges as it may fix.

(*2*) A Cantonment Authority may notify places at which articles of clothing, bedding, conveyances or other articles which have been exposed to infection shall be washed, and, if it does so, no person shall wash any such thing at any place not so notified without having previously disinfected such thing.

(*3*) The President of a Board or, where there is no Board, the [1][Officer Commanding the station], may direct the destruction of any clothing, bedding or other article in the cantonment likely to retain infection, and may give such compensation as he thinks fit for any article so destroyed.

Making or selling of food, etc., or washing clothes by infected person

167. Whoever, while suffering from, or in circumstances in which he is likely to spread, any infectious or contagious disease,—

(*a*) makes, carries or offers for sale in a cantonment or takes any part in the business of making, carrying or offering for sale therein any article of food or drink or any medicine or drug for human consumption, or any article of clothing or bedding for personal use or wear, or

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1 These words were inserted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

thereof may examine him for the purpose of satisfying himself whether or not such person is suffering from an infectious or contagious disease :

Provided that, if, having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, the Health Officer or medical officer, as the case may be, considers that the attendance of such person at a hospital or dispensary is likely to prove unnecessary or inexpedient, he shall examine such person at such person's own residence.

(2) If any person, on examination under sub-section (1), is found to be suffering from an infectious or contagious disease, the Health Officer or medical officer, as the case may be, may cause him to be detained in hospital until he is free from the infection or contagion :

Provided that, if having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, he considers that the detention of such person at a hospital or dispensary is unnecessary or inexpedient, he shall discharge such person and take such measures or give such directions in the mater as he thinks necessary.

Power to exclude from cantonment persons refusing to attend hospital or dispensary.

176. (1) If the Health Officer or the medical officer in charge of a hospital or dispensary maintained or aided under section 171 reports in writing to the [1][Officer Commanding the station] that any person having received a notice under section 175 has refused or omitted to attend at the hospital or dispensary, specified in the notice, or that such person, having attended the hospital or dispensary, has quitted it without the permission of such medical officer, or that any person has failed to comply with any direction given to him under section 175, the [1][Officer Commanding the station] may, by order in writing, direct such person to remove from the cantonment within twenty-four hours and not to re-enter it without his permission in writing.

(2) No person who has under sub-section (1) been ordered to remove from and not to re-enter a cantonment shall enter any other cantonment in British India without the written permission of the [2][Officer Commanding the station].

Control of Traffic for Hygienic Purposes.

Routes for pilgrims and others.

177. (1) A Cantonment Authority may provide or prescribe suitable routes for the use of persons passing through the cantonment—

(*a*) on their way to or from fairs or places of pilgrimage or other places of public resort; or

(*b*) during times when an infectious or contagious disease is prevalent;

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1 These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

2 These words were substituted by s. 8, *ibid.*

and may, by public notice, require such persons as aforesaid to use such routes and no others.

(2) All routes provided or prescribed under sub-section (1) shall be clearly and sufficiently indicated by the Cantonment Authority.

Special Conditions regarding Essential Services

178. (1) Whoever, being a sweeper employed by a Cantonment Authority, in the absence of a written contract authorising him so to do and without reasonable cause, resigns his employment or absents himself from his duty without having given one month's notice to the Cantonment Authority, or neglects or refuses to perform his duties, or any of them, shall be punishable with imprisonment which may extend to one month. **Conditions of service of sweepers.**

(2) The Local Government may, by notification in the local official Gazette, direct that on and from such date as may be specified in the notification, the provisions of this section shall apply in the case of any specified class of servants employed by a Cantonment Authority whose functions intimately concern the public health or safety.

(3) For the purpose of this section, "sweeper" includes any menial servant employed by a Cantonment Authority in the removal or disposal of filth or rubbish.

CHAPTER XI

CONTROL OVER BUILDINGS, STREETS, BOUNDARIES, TREES, ETC.

Buildings

179. (1) Whoever intends to erect or re-erect any building in a cantonment shall give notice in writing of his intention to the Cantonment Authority. **Notice of new buildings.**

(2) For the purposes of this Act, a person shall be deemed to erect or re-erect a building who—

(a) makes any material alteration or enlargement of any building, or

(b) converts into a place for human habitation any building not originally constructed for that purpose, or

(c) converts into more than one place for human habitation a building originally constructed as one such place, or

(d) converts two or more places of human habitation into a greater number of such places, or

(e) converts into a stable, cattle-shed or cowhouse any building originally constructed for human habitation, or

(*f*) makes any alteration which there is reason to believe is likely to affect prejudicially the stability or safety of any building or the condition of any building in respect of drainage, sanitation or hygiene, or

(*g*) makes any alteration to any building which increases or diminishes the height of, or area covered by, or the cubic capacity of, the building, or which reduces the cubic capacity of any room in the building below the minimum prescribed by any bye-law made under this Act.

Conditions of valid notice.

180. (*1*) A person giving the notice required by section 179 shall specify the purpose for which it is intended to use the building to which such notice relates.

(*2*) No notice shall be valid until the information required under sub-section (*1*) and any further information and plans which may be required under bye-laws made under this Act have been furnished to the satisfaction of the Cantonment Authority along with the notice.

Power of Cantonment Authority to sanction or refuse.

181. (*1*) The Cantonment Authority may either refuse to sanction the erection or re-erection, as the case may be, of the building, or may sanction it either absolutely or subject to such direction as it thinks fit to make in writing in respect of all or any of the following matters, namely :—

(*a*) the free passage or way to be left in front of the building;

(*b*) the space to be left about the building to secure free circulation of air and facilitate scavenging and the prevention of fire;

(*c*) the ventilation of the building, the minimum cubic area of the rooms and the number and height of the storeys of which the building may consist;

(*d*) the provision and position of drains, latrines, urinals, cesspools or other receptacles for filth;

(*e*) the level and width of the foundation, the level of the lowest floor and the stability of the structure;

(*f*) the line of frontage with neighbouring buildings if the building abuts on a street;

(*g*) the means to be provided for egress from the building in case of fire;

(*h*) the materials and method of construction to be used for external and party walls for rooms, floors, fireplaces, and chimneys;

(*i*) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on; and

(*j*) any other matter affecting the ventilation and sanitation of the buildings;

and the person erecting or re-erecting the building shall obey all such written directions in every particular.

(2) If the Cantonment Authority decides to refuse to sanction the erection or re erection of the building, it shall communicate in writing the reasons for such refusal to the person by whom the notice was given

(3) Where the Cantonment Authority neglects or omits, for one month after the receipt of a valid notice, to make and deliver to the person who has given the notice any order of any nature specified in this section, and such person thereafter, by a written communication, sent by registered post to the Cantonment Authority calls the attention of the Cantonment Authority to the neglect or omission, then, if such neglect or omission continues for a further period of fifteen days from the date of such communication, the Cantonment Authority shall be deemed to have given sanction to the erection or re erection, as the case may be, unconditionally

(4) The Cantonment Authority may refuse to sanction the erection or re erection of any building either on grounds affecting the particular building or in pursuance of a general scheme sanctioned by the Officer Commanding in Chief, the Command restricting the erection or re-erection of buildings within specified limits for the prevention of over-crowding or in the interests of persons residing within such limits or for any other public purpose

182 (1) No compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of the refusal of the Cantonment Authority of sanction to the erection of any building or in respect of any direction issued by it under sub section (1) of section 181 Compensation

(2) The Cantonment Authority shall make compensation to the owner of any building for any actual damage or loss sustained by him in consequence of the prohibition of the re erection of any building or of its requiring any land belonging to him to be added to the street

Provided that the Cantonment Authority shall not be liable to make any compensation in respect of the prohibition of the re-erection of any building which for a period of three years or more immediately preceding such refusal has not been in existence or has been unfit for human habitation

183 Every sanction for the erection or re erection of a building given or deemed to have been given by the Cantonment Authority as hereinbefore provided shall be available for one year from the date on which it is given, and, if the building so sanctioned is not begun by the person who has obtained the sanction or some one lawfully claiming under him within that period, it shall not thereafter be begun without fresh sanction obtained in the manner hereinbefore provided Laps of sanction

Illegal erection and re-erection.

184. Whoever begins, continues or completes the erection or re-erection of a building—

(*a*) without having given a valid notice as required by sections 179 and 180, or before the building has been sanctioned or is deemed to have been sanctioned, or

(*b*) without complying with any direction made under sub-section (*1*) of section 181, or

(*c*) when sanction has been refused, or has ceased to be available, shall be punishable with fine which may extend to five hundred rupees.

Power to stop erection or re-erection or to demolish.

185. A Cantonment Authority may, at any time, by notice in writing, direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the Cantonment Authority considers that such erection or re-erection is an offence under section 184, and may in any such case in like manner direct the alteration or demolition, as it thinks necessary, of the building, or any part thereof, so erected or re-erected :

Provided that the Cantonment Authority may, instead of requiring the alteration or demolition of any such building or part thereof, accept by way of composition such sum as it thinks reasonable.

Power to make bye-laws.

186. A Cantonment Authority may make bye-laws prescribing—

(*a*) the manner in which notice of the intention to erect or re-erect a building in the cantonment shall be given to the Cantonment Authority and the information and plans to be furnished with the notice;

(*b*) the type or description of buildings which may or may not, and the purpose for which a building may or may not, be erected or re-erected in any specified area or areas;

(*c*) the minimum cubic capacity of any room or rooms in a building which is to be erected or re-erected; and

(*d*) the fees payable on provision by the Cantonment Authority of plans or specifications of the type of buildings which may be erected in the cantonment or any part thereof.

rojections and obstructions.

187. (*1*) No owner or occupier of any building in a cantonment shall, without the permission in writing of the Cantonment Authority, add to or place against or in front of the building any projection or structure overhanging, projecting into, or encroaching on, any street or any drain, sewer or aqueduct therein.

(*2*) The Cantonment Authority may, by notice in writing, require the owner or occupier of any such building to alter or remove any such projection or encroachment as aforesaid :

Provided that, in the case of any projection or encroachment lawfully in existence at the commencement of this Act, the Cantonment Authority

shall make compensation for any damage caused by the removal or alteration

(3) The Cantonment Authority may, by order in writing, give permission to the owners or occupiers of buildings in any particular street to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement wall at such height from the level ground or street as may be specified in the order

188. A Cantonment Authority may by notice in writing, require any person who has without its permission in writing newly erected or re-erected any building over any public sewer, drain, culvert, water-course or water pipe in the cantonment to pull down or otherwise deal with the same as it thinks fit (Power to deal with buildings over drains etc)

189 (1) A Cantonment Authority may, by notice in writing, require the owner or lessee of any building or land in any street, at his own expense and in such manner as the Cantonment Authority thinks fit, to put up and keep in good condition proper troughs and pipes for receiving and carrying rain water from the building or land and for discharging the same or to establish and maintain any other connection or communication between such building or land and any drain or sewer (Drainage and sewer connections)

(2) For the purpose of efficiently draining any building or land in the cantonment the Cantonment Authority may by notice in writing, require the owner or lessee of the building or land—

(a) to pave with such materials and in such manner as it thinks fit any courtyard alley or passage between two or more buildings or

(b) to keep any such paving in proper repair

190 A Cantonment Authority may attach to the outside of any building, or to any tree in the cantonment brackets for lamps in such manner as not to occasion injury thereto or inconvenience (Power to attach brackets for lamps)

Streets

191. A Cantonment Authority may, by order in writing permit the temporary occupation of any street or of any land vested in the Cantonment Authority, for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon subject to such conditions as it may prescribe for the safety or convenience of the public and may charge a fee for such permission and may in its discretion withdraw such permission (Temporary occupation of street or land etc)

192 (1) A Cantonment Authority shall not permanently close any street or open any new street without the previous sanction of the [1][Officer Commanding in Chief the Command] (Closing and opening of streets)

1 These words were substituted by s 2 of the Cantonments (Amendment) Act 1936 (35 of 1936)

(*2*) A Cantonment Authority may, by public notice, temporarily close any street or any part of a street for repair or for the purpose of carrying out any work connected with drainage, water-supply or lighting or any other work which it is by or under this Act required or permitted to carry out:

Provided that where, owing to any works or repairs or from any other cause, the condition of any street or of any water-works, drain, culvert or premises vested in the Cantonment Authority, is such as to be likely to cause danger to the public, the Cantonment Authority shall—

(*a*) take all reasonable means for the protection of the adjacent buildings and land and provide reasonable means of access thereto;

(*b*) cause sufficient barriers or fences to be erected for the security of life and property, and cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Names of streets and numbers of buildings.

193. (*1*) A Cantonment Authority may cause a name to be given to any street and to be affixed on any building in the cantonment in such place as it thinks fit, and may also cause a number to be affixed to any such building.

(*2*) Whoever destroys, pulls down, defaces or alters any such name or number or puts up any name or number differing from that put up by the order of the Cantonment Authority shall be punishable with fine which may extend to twenty rupees.

Boundaries and Trees.

Boundary walls, hedges and fences.

194. (*1*) No boundary wall, hedge or fence of any material or description shall be erected in a cantonment without the permission in writing of the Cantonment Authority.

(*2*) A Cantonment Authority may, by notice in writing, require the owner or lessee of any land in the cantonment—

(*a*) to remove from the land any boundary wall, hedge or fence which is, in its opinion, unsuitable, unsightly or otherwise objectionable; or

(*b*) to construct on the land sufficient boundary walls, hedges or fences of such material, description or dimensions as may be specified in the notice; or

(*c*) to maintain the boundary walls, hedges or fences of such lands in good order:

Provided that, in the case of any such boundary wall, hedge or fence which was erected with the consent or under the orders of the Cantonment Authority, or which was in existence at the commencement of

this Act, the Cantonment Authority shall make compensation for any damage caused by the removal thereof.

(3) The Cantonment Authority may, by notice in writing, require the owner, lessee or occupier of any such land to cut or trim any hedge on the land in such manner and within such time as may be specified in the notice

195 (1) Where, in the opinion of a Cantonment Authority, the felling of any tree of mature growth standing in a private enclosure in the cantonment is necessary for any reason, the Cantonment Authority may, by notice in writing, require the owner, lessee or occupier of the land to fell the tree within such time as may be specified in the notice Felling, lopping and trimming of trees

(2) A Cantonment Authority may—

(a) cause to be lopped or trimmed any tree standing on land in the cantonment which belongs to the Government; or

(b) by public notice require all owners, lessees or occupiers of land in the cantonment, or by notice in writing require the owner, lessee or occupier of any such land, to lop or trim, in such manner as may be specified in the notice, all or any trees standing on such land or to remove any dead trees from such land

196. Whoever, without the permission in writing of the Cantonment Authority, digs up the surface of any open space in the cantonment, which is not private property, shall be punishable with fine which may extend to twenty rupees, and, in the case of a continuing offence, to an additional fine which may extend to five rupees for every day after the first during which the offence continues Digging of public land

197. (1) If, in the opinion of a Cantonment Authority, the working of a quarry in the cantonment, or the removal of stone, earth or other material from the soil in any place in the cantonment, is dangerous to persons residing in or frequenting the neighbourhood of such quarry or place, or creates, or is likely to create, a nuisance, the Cantonment Authority may, by notice in writing, prohibit the owner, lessee or occupier of such quarry or place or the person responsible for such working or removal, from continuing or permitting the working of such quarry or the moving of such material or require him to take such steps in the matter as the Cantonment Authority may direct for the purpose of preventing danger or abating the nuisance arising or likely to arise therefrom Improper use of land.

(2) If in any case referred to in sub section (1), the Cantonment Authority is of opinion that such a course is necessary in order to prevent imminent danger it may, by order in writing, require a proper hoarding or fence to be put up for the protection of passers-by

sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a public market or public slaughter-house for such term and on such conditions as it thinks fit.

201. A copy of the table of stallages, rents and fees, if any, leviable in any public market or public slaughter-house, and of the bye-laws *made under this Act for the purpose of regulating the use of such market* or slaughter house printed in the English language and in such other language or languages as the Cantonment Authority may direct, shall be affixed in some conspicuous place in the market or slaughter-house. Stallages, rents, etc., to be published.

202. (*1*) No place in a cantonment other than a public market shall be used as a market, and no place in a cantonment other than a public *slaughter-house shall be used as a slaughter house*, unless such place has been licensed as a market or slaughter house, as the case may be, by the Cantonment Authority. Private markets and slaughter-houses.

Provided that nothing in this sub-section shall apply in the case of a slaughter-house established and maintained by the Government.

(*2*) Nothing in sub-section (*1*) shall be deemed—

(*a*) to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony, subject to such conditions as to prior or subsequent notice as the Executive Officer with the previous sanction of the District Magistrate may, by public or special notice, impose in this behalf, or

(*b*) to prevent the Executive Officer, with the sanction of the Cantonment Authority, from setting apart places for the slaughter of animals in accordance with religious custom when such animals are slaughtered for consumption by the troops or for the purpose of the sale of the flesh thereof to the troops.

(*3*) Whoever omits to comply with any condition imposed by the Executive Officer under clause (*a*) of sub-section (*2*) shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to ten rupees for every day after the first during which the offence is continued.

203. (*1*) A Cantonment Authority may charge such fees as it thinks fit to impose for the grant of a licence to any person to open a private market or private slaughter-house in the cantonment, and may grant such licence subject to such conditions, consistent with this Act and any bye-laws made thereunder, as it thinks fit to impose. Conditions of grant of licence for private market or slaughter-house.

(*2*) The Cantonment Authority may refuse to grant any such licence without giving reasons for such refusal.

204. (*1*) Any person who keeps open for public use any market or slaughter-house in respect of which a licence is required by or under this Penalty for keeping market or

1 These words were substituted by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

CHAPTER XII.

MARKETS, SLAUGHTER-HOUSES, TRADES AND OCCUPATIONS.

Public markets and slaughter-houses.

198. (*1*) A Cantonment Authority may provide and maintain, either within or without the cantonment, public markets and public slaughter-houses, to such number as it thinks fit, together with stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in or frequenting such markets or slaughter-houses, and may provide and maintain in any such market buildings, places, machines, weights, scales and measures for the weighment or measurement of goods sold therein.

(*2*) When such market or slaughter-house is situated beyond cantonment limits, the Cantonment Authority shall have the same power for the inspection and proper regulation of the same as if it were situated within those limits.

(*3*) The Cantonment Authority may at any time, by public notice, close any public market or public slaughter-house or any part thereof.

(*4*) Nothing in this section shall be deemed to authorise the establishment of a public market or public slaughter-house within the limits of any area administered by any local authority other than the Cantonment Authority without the permission of such local authority or otherwise than on such conditions as such local authority may approve.

Use of public market.

199. (*1*) No person shall, without the general or special permission in writing of the Cantonment Authority, sell or expose for sale any animal or article in any public market.

(*2*) Any person contravening the provisions of this section, and any animal or article exposed for sale by such person, may be summarily removed from the market by or under the orders of the Executive Officer or any officer or servant of the Cantonment Authority authorised by it in this behalf.

Levy of stallages, rents and fees.

200. A Cantonment Authority may—

(*a*) charge for the occupation or use of any stall, shop, standing, shed or pen in a public market, or public slaughter-house, or for the right to expose goods for sale in a public market, or for weighing or measuring goods sold therein, or for the right to slaughter animals in any public slaughter-house, such stallages, rents and fees as it thinks fit; or

(*b*) with the sanction of the [1][Officer Commanding-in-Chief, the Command], farm the stallages, rents and fees leviable as aforesaid or any portion thereof for any period not exceeding one year at a time; or

(*c*) put up to public auction, or with the sanction of the [1][Officer Commanding-in-Chief, the Command], dispose of by private

[1] These words were substituted by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a public market or public slaughter-house for such term and on such conditions as it thinks fit.

Stallages, rents, etc., to be published.

201. A copy of the table of stallages, rents and fees, if any, leviable in any public market or public slaughter-house, and of the bye-laws made under this Act for the purpose of regulating the use of such market or slaughter-house, printed in the English language and in such other language or languages as the Cantonment Authority may direct, shall be affixed in some conspicuous place in the market or slaughter-house.

Private markets and slaughter-houses.

202. (1) No place in a cantonment other than a public market shall be used as a market, and no place in a cantonment other than a public slaughter-house shall be used as a slaughter-house, unless such place has been licensed as a market or slaughter-house, as the case may be, by the Cantonment Authority:

Provided that nothing in this sub-section shall apply in the case of a slaughter-house established and maintained by the Government.

(2) Nothing in sub-section (1) shall be deemed—

(a) to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony, subject to such conditions as to prior or subsequent notice as the Executive Officer with the previous sanction of the District Magistrate may, by public or special notice, impose in this behalf, or

(b) to prevent the Executive Officer with the sanction of the Cantonment Authority from setting apart places for the slaughter of animals in accordance with the religious custom when such animals are slaughtered for consumption by the troops or for the purpose of the sale of the flesh thereof to the troops.

(3) Whoever omits to comply with any condition imposed by the Executive Officer under clause (a) of sub-section (2) shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to ten rupees for every day after the first during which the offence is continued.

Conditions of grant of licence for private market or slaughter-house.

203. (1) A Cantonment Authority may charge such fees as it thinks fit to impose for the grant of a licence to any person to open a private market or private slaughter-house in the cantonment, and may grant such licence subject to such conditions consistent with this Act and any bye-laws made thereunder as it thinks fit to impose.

(2) The Cantonment Authority may refuse to grant any such licence without giving reasons for such refusal.

Penalty for keeping ...

204. (1) Any person who keeps open for public use any market or slaughter-house in respect of which a licence is required by or under this

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[1] These words were substituted by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

(*b*) the regulation of the design, ventilation and drainage of such markets and slaughter-houses, and the material to be used in the construction thereof;

(*c*) the keeping of such markets and slaughter-houses and lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth and refuse therefrom, and the supply therein of pure water and of a sufficient number of latrines and urinals for the use of persons using or frequenting the same,

(*d*) the manner in which animals shall be stalled at a slaughter-house,

(*e*) the manner in which animals may be slaughtered;

(*f*) the disposal or destruction of animals offered for slaughter which are, from disease or any other cause, unfit for human consumption; and

(*g*) the destruction of carcases which from disease or any other cause are found after slaughter to be unfit for human consumption

Trades and Occupations

209. (*1*) A Cantonment Authority may provide suitable places for the exercise by washermen of their calling, and may require payment of such fees for the use thereof as it thinks fit Provision of washing places

(*2*) Where the Cantonment Authority has provided such places as aforesaid it may, by public notice, prohibit the washing of clothes by washermen at any other place in the cantonment

Provided that such prohibition shall not be deemed to apply to the washing by a washerman of his own clothes or of the clothes of any other person who is an occupier of the place at which they are washed

(*3*) Whoever *contravenes any prohibition contained in a notice issued* under sub section (*2*) shall be punishable with fine which may extend to twenty rupees

210. (*1*) No person of any of the following classes, namely — Licences required for carrying on of certain occupations.

(*a*) butchers and vendors of poultry, game or fish

(*b*) persons keeping pigs for profit, and dealers in the flesh of pigs which have been slaughtered in India,

(*c*) persons keeping milch cattle or milch goats for profit

(*d*) persons keeping for profit any animals other than pigs, milch cattle or milch goats

(*e*) dairymen, buttermen and makers and vendors of ghee;

(*f*) makers of bread, biscuits or cake, and vendors of bread, biscuits or cake made in India;

(*g*) vendors of fruit or vegetables;

(*h*) manufacturers of ærated or other potable waters or of ice or ice-cream, and vendors of the same;

(*j*) vendors of any medicines, drugs or articles of food or drink for human consumption (other than the flesh of pigs, milk, butter, bread, biscuits, cake, fruit, vegetables, ærated or other potable waters or ice or ice-cream) which are of a perishable nature;

(*k*) vendors of water to be used for drinking purposes;

(*l*) washermen;

(*m*) dealers in hay, straw, wood, charcoal or other inflammable material;

(*n*) dealers in fire-works, kerosene oil, petroleum or any other inflammable oil or spirit;

(*o*) tanners and dyers;

(*p*) persons carrying on any trade or occupation from which offensive or unwholesome smells arise;

(*q*) vendors of wheat, rice and other grain or of flour; and

(*r*) makers and vendors of sugar or sweetmeats;

shall carry on his trade, calling or occupation in any part of a cantonment unless he has applied for and obtained a licence in this behalf from the Cantonment Authority.

(*2*) A licence granted under sub-section (*1*) shall be valid for one year, and the grant of such licence shall not be withheld by the Cantonment Authority unless it has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to the public.

(*3*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) no person who was, at the commencement of this Act, carrying on his trade, calling or occupation in any part of a cantonment shall be bound to apply for a licence for carrying on such trade or occupation in that part until he has received from the Cantonment Authority not less than three months' notice in writing of his obligation to do so, and if the Cantonment Authority refuses to grant him a licence, it shall pay compensation for any loss incurred by reason of such refusal;

(*b*) no person shall be required to take out a licence for the sale or storage of petroleum or for the sale or possession for sale of poisons or white arsenic in any case in which he is required to take out a licence for such sale, storage or possession for sale by or under the Indian Petroleum Act, 1899, or the Poisons Act, 1919. **VIII of 1899. XII of 1919.**

(4) *The Cantonment Authority may charge for the grant of licences* under this section such fees as it may fix with the previous sanction of the Local Government

211. A licence granted to any person under section 210 shall specify the part of the cantonment in which the licensee may carry on his trade, calling or occupation, and may regulate the hours and manner of transport within the cantonment of any specified articles intended for human consumption and may contain any other conditions which the Cantonment Authority thinks *fit to impose in accordance with* bye-laws made under this Act

Conditions which may be attached to licences

General Provisions

212 If a Cantonment Authority is satisfied that any place used under a *licence* granted under this Chapter is a nuisance or is likely to be dangerous to life, health or property the Cantonment Authority may, by notice in writing, require the owner lessee or occupier thereof to discontinue the use of such place or to effect such alterations, additions or improvements as will, in the opinion of the Cantonment Authority render it no longer a nuisance or dangerous

Power to vary licence.

213 Whoever carries on any trade calling or occupation for which a licence is required without obtaining a licence therefor or while the *licence therefor is suspended or after the same has been cancelled,* and whoever after receiving a notice under section 212 uses or allows to be used any building or place in contravention thereof shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with an additional fine which may extend to forty rupees for every day after the first during which the offence is continued

Carrying on trade, etc, without licence or in contravention of section 212

214. Whoever feeds or allows to be fed on filthy or deleterious substances any animal, which is kept for the purpose of supplying milk to, or which is *intended to be used as food for the inhabitants of a cantonment* or allows it to graze in any place in which grazing has, for sanitary reasons, been prohibited by public notice by the Cantonment Authority, shall be punishable with fine which may extend to fifty rupees

Feeding animals on filth etc

Entry, Inspection and Seizure

215 (1) The President or the Vice President of a Board, the Executive Officer the Health Officer the Assistant Health Officer, or any other officer or servant of a Cantonment Authority authorised by it in writing in this behalf —

Powers of entry and seizure

(a) may at any time enter into any market building, shop, stall or other place in the cantonment for the purpose of inspecting, and may inspect, any animals, article or thing intended for

human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale, or of preparation for sale, or any utensil or vessel for preparing, manufacturing or containing any such article, or thing, and may enter into and inspect any place used as a slaughter-house and may examine any animal or article therein;

(b) may seize any such animal, article or thing which appears to him to be diseased, or unwholesome or unfit for human food or drink or medicine, as the case may be, or to be adulterated or to be not what it is represented to be, or any such utensil or vessel which is of such a kind or in such a state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be.

(2) Any article seized under sub-section (1) which is of a perishable nature may, under the orders of the Health Officer or the Assistant Health Officer, forthwith be destroyed if, in his opinion, it is diseased, unwholesome or unfit for human food, drink or medicine, as the case may be.

(3) Every animal, article, utensil, vessel or other thing seized under sub-section (1) shall, if it is not destroyed under sub-section (2), be taken before a Magistrate.

(4) The owner or person in possession, at the time of seizure under sub-section (1), of any animal or carcase which is diseased or of any article or thing which is unwholesome or unfit for human food, drink or medicine, as the case may be, or is adulterated or is not what it is represented to be, or of any utensil or vessel which is of such kind or in such state as is described in clause (b) of sub-section (1), shall be punishable with fine which may extend to one hundred rupees, and the animal, article, utensil, vessel or other thing shall be liable to be forfeited to the Cantonment Authority or to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for the preparation of food, drink or medicine, as the case may be.

Explanation I.—If any such article, having been exposed or stored in, or brought to, any place mentioned in sub-section (1) for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed, for the purposes of this section, to be an article which is not what it is represented to be.

Explanation II.—Meat subjected to the process of blowing shall be deemed to be unfit for human food.

Explanation III.—The article of food or drink shall not be deemed to be other than what it is represented to be merely by reason of

the fact that there has been added to it some substance not injurious to health

Provided that—

(*a*) such substance has been added to the article because the same is required for the preparation or production thereof as an *article of commerce in a state fit for carriage or consumption* and not fraudulently to increase the bulk, weight or measure of the food or drink or conceal the inferior quality thereof, or

(*b*) in the process of production, preparation or conveyance of such *article of food or drink, the extraneous substance* has unavoidably become intermixed therewith, or

(*c*) the owner or person in possession of the article has given sufficient notice by means of a label distinctly and legibly written *or printed* thereon *or therewith*, or by other means of a public description, that such substance has been added, or

(*d*) such owner or person has purchased the article with a written warranty that it was of a certain nature, substance and quality and had no reason to believe that it was not of such nature, substance and quality, and has exposed it or hawked it about or brought it for sale in the same state and by the same description as that in and by which he purchased it

Import of Cattle and Flesh

216. (*1*) No person shall, without the permission in writing of the Cantonment Authority, bring into a cantonment any animal intended for human consumption, or the flesh of any animal slaughtered outside the cantonment otherwise than in a slaughter-house maintained by the Government or the Cantonment Authority

Import of cattle and flesh

(*2*) Any animal or flesh brought into a cantonment in contravention of sub-section *(1) may be seized by the Executive Officer or by any* servant of the Cantonment Authority and sold or otherwise disposed of as the Cantonment Authority may direct, and, if it is sold, the sale-proceeds may be credited to the cantonment fund

(*3*) Whoever *contravenes the provisions of sub section (1) shall be* punishable with fine which may extend to fifty rupees

(*4*) Nothing in this section shall be deemed to apply to cured or preserved meat or to animals driven or meat carried through a cantonment *for consumption outside thereof, or to meat brought into a cantonment* by any person for his immediate domestic consumption ·

Provided that the Cantonment Authority may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought *from* any *specified place*

CHAPTER XIII.

WATER SUPPLY, DRAINAGE AND LIGHTING.

Water Supply.

Maintenance of water-supply.

217. (*1*) In every cantonment where a sufficient supply of pure water for domestic use does not already exist, the Cantonment Authority shall provide or arrange for the provision of such a supply.

(*2*) The Cantonment Authority shall, as far as possible, make adequate provision that such supply shall be continuous throughout the year, and that the water shall be at all times pure and fit for human consumption.

Control over sources of public water-supply.

218. (*1*) The Cantonment Authority may, with the previous sanction of the Local Government, by public notice, declare any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment (other than a source of water-supply under the control of the [1][Military Engineer] Services or the Public Works Department) from which water is or may be made available for the use of the public in the cantonment to be a source of public water-supply.

(*2*) Every such source shall be under the control of the Cantonment Authority.

Power to require maintenance or closing of private source of public drinking water-supply.

219. The Cantonment Authority may, by notice in writing require the owner or any person having the control of any source of public water-supply which is used for drinking purposes—

(*a*) to keep the same in good order and to clear it from time to time of silt, refuse and decaying vegetation, or

(*b*) to protect the same from contamination in such manner as the Cantonment Authority may direct, or

(*c*) if the water therein is proved to the satisfaction of the Cantonment Authority to be unfit for drinking purposes, to take such measures as may be specified in the notice to prevent the public from having access to or using such water:

Provided that, in the case of a well, such person as aforesaid may, instead of complying with the notice, signify in writing his desire to be relieved of all responsibility for the proper maintenance of the well and his readiness to place it under the control and supervision of the Cantonment Authority for the use of the public, and, if he does so, he shall not be bound to carry out the requisition, and the Cantonment Authority shall undertake the control and supervision of the well.

1 These words were substituted by s. 9 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

(Chapter XIII —Water Supply, Drainage and Lighting)

220 (1) The Cantonment Authority may permit the owner, lessee or occupier of any building or land to connect the building or land with a source of public water-supply by means of communication pipes of such size and description as it may prescribe for the purpose of obtaining water for domestic use Supply of water.

(2) The occupier of every building so connected with the water-supply shall be entitled to have for domestic use, in return for the water tax, if any, such quantity of water as the Cantonment Authority may determine

(3) All water supplied in excess of the quantity to which such supply is limited under sub section (2) and, in a cantonment in which a water tax is not imposed, all water supplied under this section, shall be paid for at such rate as the Cantonment Authority may fix

(4) The supply of water for domestic use shall not be deemed to include any supply—

(a) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire,

(b) for any trade, manufacture or business,

(c) for fountains, swimming baths or any ornamental or mechanical purpose

(d) for gardens or for purposes of irrigation,

(e) for making or watering roads or paths, or

(f) for building purposes

221. If it appears to the Cantonment Authority that any building or land in the cantonment is without a proper supply of pure water, the Cantonment Authority may, by notice in writing, require the owner, lessee or occupier of the building or land to obtain from a source of public water supply such quantity of water as is adequate to the requirements of the persons usually occupying or employed upon the building or land, and to provide communication pipes of the prescribed size and description, and to take all necessary steps for the above purposes Power to require water supply to be taken.

222 (1) The Cantonment Authority may, by agreement, supply, from any source of public water supply the owner lessee or occupier of any building or land in the cantonment with any water for any purpose other than a domestic purpose, on such terms and conditions, consistent with this Act and the rules and bye laws made thereunder, as may be agreed upon between the Cantonment Authority and such owner, lessee or occupier Supply of water under agreement

(2) The Cantonment Authority may withdraw such supply or curtail the quantity thereof at any time if it should appear necessary to do so for the purpose of maintaining sufficient supply of water for domestic use by inhabitants of the cantonment

Cantonment Authority not liable for failure of supply.

223. Notwithstanding any obligation imposed on Cantonment Authorities under this Act, a Cantonment Authority shall not be liable to any forfeiture, penalty or damages for failure to supply water or for curtailing the quantity thereof if the failure or curtailment, as the case may be, arises from accident or from drought or other unavoidable cause unless, in the case of an agreement for the supply of water under section 222, the Cantonment Authority has made express provision for forfeiture, penalty or damages in the event of such failure or curtailment.

Conditions of universal application.

224. Notwithstanding anything hereinbefore contained or contained in any agreement under section 222, the supply of water by a Cantonment Authority to any building or land shall be, and shall be deemed to have been, granted subject to the following conditions, namely :—

(*a*) the owner, lessee or occupier of any building or land in or on which water supplied by the Cantonment Authority is wasted by reason of the pipes, drains or other works being out of repair shall, if he has knowledge thereof, give notice of the same to such officer as the Cantonment Authority may appoint in this behalf;

(*b*) the Executive Officer or any other officer or servant of the Cantonment Authority authorised by it in writing in this behalf may enter into or on any premises supplied with water by the Cantonment Authority, for the purpose of examining all pipes, taps, works and fittings connected with the supply of water and of ascertaining whether there is any waste or misuse of such water;

(*c*) the Cantonment Authority may, after giving notice in writing, cut off the connection between any source of public water-supply and any building or land to which water is supplied for any purpose therefrom, or turn off such supply if—

(i) the owner or occupier of the building or land neglects to pay the water tax or other charges connected with the water-supply within one month from the date on which such tax or charge falls due for payment;

(ii) the occupier refuses to admit the Executive Officer or other authorised officer or servant of the Cantonment Authority into the building or land for the purpose of making any examination or inquiry authorised by clause (*b*) or prevents the making of such examination or inquiry;

(iii) the occupier wilfully or negligently misuses or causes waste of water;

(iv) the occupier wilfully or negligently injures or damages his meter or any pipe or tap conveying water from the water-works;

(v) any pipes, taps, works or fittings connected with the supply of water to the building or land are found, on examination by the Executive Officer, to be out of repair to such an extent as to cause a waste of water,

(d) the expense of cutting off the connection or of turning off the water in any case referred to in clause (c) shall be paid by the owner or occupier of the building or land,

(e) no action taken under or in pursuance of clause (c) shall relieve any person from any penalty or liability which he may otherwise have incurred.

225. A Cantonment Authority may allow any person not residing within the limits of the cantonment to take or be supplied with water for any purpose from any source of public water supply on such terms as it may prescribe, and may at any time withdraw or curtail such supply. Supply to persons outside cantonment

226. Whoever— Penalty

(a) uses for other than domestic purposes any water supplied by a Cantonment Authority for domestic use, or

(b) where water is supplied by agreement with a Cantonment Authority for a specified purpose, uses that water for any other purpose,

shall be punishable with fine which may extend to fifty rupees, and the Cantonment Authority shall be entitled to recover from him the price of the water misused.

Water, Drainage and other Connections

227. A Cantonment Authority may carry any cable, wire, pipe, drain, sewer or channel of any kind,— Power of Cantonment Authority to lay wires connections etc

(a) for the purpose of carrying out, establishing or maintaining any system of water-supply, lighting, drainage or sewerage through, across, under or over any road or street, or any place laid out or intended as a road or street, or, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up the side of any building, situated within the cantonment, or

(b) for the purpose of supplying water or of the introduction or distribution of outfall of water or for the removal or outfall of sewage, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up the side of any building, situated outside the cantonment,

and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain

sewer or channel in an effective state for the purpose for which the same may be used or is intended to be used:

Provided that no nuisance shall be caused in excess of what is reasonably necessary for the proper execution of the work:

Provided, further, that compensation shall be payable to the owner or occupier for any damage sustained by him which is directly occasioned by the carrying out of any such operation.

Wires, etc., laid above surface of ground.

228. In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over or up the side of any building, such cable, wire, pipe, drain, sewer or channel shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building, and compensation shall be payable by the Cantonment Authority in respect of any substantial interference with the right to any such enjoyment.

Connection with main not to be made withou permission.

229. No person shall, for any purpose whatsoever, without the permission of the Cantonment Authority, at any time make or cause to be made any connection or communication with any cable, wire, pipe, drain, sewer or channel constructed or maintained by, or vested in, a Cantonment Authority.

Power to prescribe ferrules and to establish meters, etc.

230. A Cantonment Authority may prescribe the size of the ferrules to be used for the supply of gas, if any, and may establish meters or other appliances for the purpose of testing the quantity of any water, or the quantity or quality of any gas, supplied to any premises by the Cantonment Authority.

ower of inspection.

231. The ferrules, communication pipes, connections, meters, standpipes and all fittings thereon or connected therewith leading from water mains or from pipes, drains, sewers or channels into any house or land, to which water or gas is supplied by a Cantonment Authority, and the pipes, fittings and works inside any such house or within the limits of any such land, shall in all cases be executed subject to the inspection and to the satisfaction of the Cantonment Authority.

Power to fix rates and charges.

232. A Cantonment Authority may fix the charges to be made for the establishment by them or through their agency of communications from, and connections with, mains, or pipes for the supply of water, or gas, or for meters or other appliances for testing the quantity or quality thereof supplied, and may levy such charges accordingly.

Application of this Chapter to Government Water-Supplies.

Government water-supply.

233. (*1*) Where in any cantonment there is a water-supply under the control of the [1][Military Engineer] Services or the Public Works Department, the Officer of the [1][Military Engineer] Services or of the

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1 These words were substituted by s. 9 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

Public Works Department, as the case may be, in charge of such water-supply (hereinafter in this section and in section 234 referred to as the Officer) may publish in the cantonment in such manner as he thinks fit a notice declaring that any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment (other than a source of public water supply under the control of the Cantonment Authority) is a source of public water supply and may, for the purpose of keeping any such source in good order or of protecting it from contamination or from use, require the Cantonment Authority to exercise any power conferred upon that Authority by section 219

(2) In the case of any water supply such as is referred to in sub section *(1)*, the following provisions of this Chapter, namely, the provisions of sections 220, 222, 223, 224, 226, 227, 228, 229, 230, 231, and 232 shall, as far as may be, be applicable in respect of the supply of water to the cantonment, and for the purpose of such application refer ences to the Cantonment Authority shall be construed as references to the Officer, and references to the Executive Officer or other officer or servant of the Cantonment Authority shall be construed as references to such person as may be authorised in this behalf by the Officer

234 In any case in which the provisions of section 233 apply, the water tax, if any, imposed in the cantonment and all other charges arising out of the supply of water which may be imposed under the provisions of this Chapter as applied by section 233 shall be recovered by the Cantonment Authority, and all monies so recovered, or such proportion thereof as the Local Government may in each case determine, shall be paid by the Cantonment Authority to the Officer

Recovery of charges

CHAPTER XIV

Removal and Exclusion from Cantonments and Suppression of Sexual Immorality

235 The [1][Officer Commanding the station] may, on receiving information that any building in the cantonment is used as a brothel or for purpo es of prostitution, by order in writing setting forth the sub stance of the information received, summon the owner, lessee, tenant or occupier of the building to appear before him either in person or by an authorised agent, and, if the [2][Officer Commanding the station] is then satisfied as to the truth of the information, he may, by order in writing

Power to remove brothels and prostitutes

[1] These words were substituted by s. 10 of the Cantonments (Amendment) Act, 1925 (7 of 1925)

[2] These words were substituted by s. 14, ibid.

(Chapter XIV.—Removal and Exclusion from Cantonments and Suppression of Sexual Immorality.)

direct the owner, lessee, tenant or occupier, as the case may be, to discontinue such use of the building within such period as may be specified in the order.

Penalty for loitering and importuning for purposes of prostitution.

236. (*1*) Whoever in a cantonment loiters for the purpose of prostitution or importunes any person to the commission of sexual immorality, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees.

(*2*) No prosecution for an offence under this section shall be instituted except on the complaint of the person importuned, or of a military officer in whose presence the offence was committed, or of a member of the Military or Air Force Police, being employed in the cantonment and authorised in this behalf by the [1][Officer Commanding the station], in whose presence the offence was committed, or of a police officer not below the rank of a sub-inspector who is employed in the cantonment and authorised in this behalf by the [1][Officer Commanding the station].

Removal of lewd persons from cantonment.

237. If the [2][Officer Commanding the station] is, after such inquiry as he thinks necessary, satisfied that any person residing in or frequenting the cantonment is a prostitute or has been convicted of an offence under section 236, or of the abetment of such an offence, he may cause to be served on such person an order in writing requiring such person to remove from the cantonment within such time as may be specified in the order, and prohibiting such person from re-entering it without the permission in writing of the [1][Officer Commanding the station].

Removal and exclusion from cantonments of disorderly persons.

238. (*1*) A Magistrate of the first class, having jurisdiction in a cantonment, on receiving information that any person residing in or frequenting the cantonment—

(*a*) is a disorderly person who has been convicted more than once of gaming or who keeps or frequents a common gaming house, a disorderly drinking shop or a disorderly house of any other description, or

(*b*) has been convicted more than once, either within the cantonment or elsewhere, of an offence punishable under Chapter XVII of the Indian Penal Code, or XLV of 1860.

(*c*) has been convicted, either within the cantonment or elsewhere, of any offence punishable under section 156 of the Army Act, or 44 & 45 Vict., c. 58.

(*d*) has been ordered under Chapter VIII of the Code of Criminal Procedure, 1898, either within the cantonment or elsewhere, to execute a bond for his good behaviour, V of 1898.

may record in writing the substance of the information received, and may issue a summons to such person requiring such person to appear

1 These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

2 These words were substituted by s. 10, *ibid.*

and show cause why he should not be required to remove from the cantonment and be prohibited from re entering it

(2) Every summons issued under sub section (1) shall be accompanied by a copy of the record aforesaid, and the copy shall be served along with the summons on the person against whom the summons is issued

(3) The Magistrate shall, when the person so summoned appears before him, proceed to inquire into the truth of the information received and take such further evidence as he thinks fit, and if upon such inquiry, it appears to him that such person is a person of any kind described in sub section (1) and that it is necessary for the maintenance of good order in the cantonment that such person should be required to remove therefrom and be prohibited from re-entering the cantonment, the Magistrate shall report the matter to the [1][Officer Commanding the station], and, if the [1][Officer Commanding the station] so directs, shall cause to be served on such person an order in writing requiring him to remove from the cantonment within such time as may be specified in the order and prohibiting him from re entering it without the permission in writing of the [1][Officer Commanding the station]

Removal and exclusion from cantonment of seditious persons.

239. (1) If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty, disaffection or breaches of discipline amongst any portion of His Majesty's forces or is a person who, the [1][Officer Commanding the station] has reason to believe, is likely to do any such act, the [1][Officer Commanding the station] may make an order in writing setting forth the reasons for the making of the same and requiring such person to remove from the cantonment within such time as may be specified in the order and prohibiting him from re entering it without the permission in writing of the [1][Officer Commanding the station]

Provided that no order shall be made under this section against any person unless he has had a reasonable opportunity of being informed of the grounds on which it is proposed to make the order and of showing cause why the order should not be made

(2) Every order made under sub-section (1) shall be sent to the Superintendent of Police of the district, who shall cause a copy thereof to be served on the person concerned

(3) Upon the making of any order under sub section (1), the [1][Officer Commanding the station] shall forthwith send a copy of the same to the Local Government

(4) The Local Government may, of its own motion, and shall, on application made to it in this behalf within one month of the date of the order by the person against whom the order has been made, call

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[1] These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925)

(Chapter XV.—Powers, Procedure, Penalties and Appeals.)

(3) The Executive Officer shall, in exercising any power conferred by this section, do as little damage as may be, and compensation shall be payable by the Cantonment Authority to the owner or occupier of such land, or to both, for any such damage whether permanent or temporary.

Breaking into premises. **245.** It shall be lawful for any person, authorised by or under this Act to make any entry into any place, to open or cause to be opened any door, gate or other barrier—

(*a*) if he considers the opening thereof necessary for the purpose of such entry; and

(*b*) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

Entry to be made in the day time. **246.** Save as otherwise expressly provided in this Act, no entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

Owner's consent ordinarily to be obtained. **247.** Save as otherwise expressly provided in this Act, no building or land shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than four hours' written notice of the intention to make such entry :

Provided that no such notice shall be necessary if the place to be inspected is a stable for horses or a shed for cattle, or a latrine, privy or urinal, or a work under construction.

Regard to be had to social and religious usages. **248.** When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

Penalty for obstruction. **249.** Whoever obstructs or molests any person employed by a Cantonment Authority, who is not a public servant within the meaning of section 21 of the Indian Penal Code or any person with whom the Cantonment Authority has lawfully contracted, in the execution of his duty or of anything which he is empowered or required to do by virtue or in consequence of any of the provisions of this Act or of any rule, bye-law or order made thereunder, or in fulfilment of his contract, as the case may be, shall be punishable with fine which may extend to one hundred rupees. **XLV of 1860.**

Powers and Duties of Police Officers.

Arrest without warrant. **250.** Any member of the police force employed in a cantonment may, without a warrant, arrest any person committing in his view a breach of any of the provisions of this Act which are specified in Schedule IV :

Provided that—

(*a*) in the case of the breach of any such provision as is specified in Part B of Schedule IV, no person shall be so arrested who consents to give his name and address, unless there is reasonable ground for doubting the accuracy of the name or address so given, the burden of proof of which shall lie on the arresting officer, and no person so arrested shall be detained after his name and address have been ascertained, and

(*b*) no person shall be so arrested for an offence under section 236 except—

(i) at the request of the person importuned or of a military officer in whose presence the offence was committed, or

(ii) by or at the request of a member of the Military or Air Force Police, who is employed in the cantonment and authorised in this behalf by the [1][Officer Commanding the station], and in whose presence the offence was committed or by or at the request of any police officer not below the rank of a sub inspector who is employed in the cantonment and authorised in this behalf by the [1][Officer Commanding the station.]

251. It shall be the duty of all police officers to give immediate information to the Cantonment Authority of the commission of any offence against the provisions of this Act or of any rule or bye law made thereunder, and to assist all cantonment officers and servants in the exercise of their lawful authority. **Duties of police officers.**

Notices

252. Where any notice, order or requisition made under this Act or any rule or bye law made thereunder requires anything to be done for the doing of which no time is fixed in this Act or in the rule or bye-law, the notice, order or requisition shall specify a reasonable time for doing the same. **Notices to fix reasonable time.**

253. Every notice, order or requisition issued by a Cantonment Authority under this Act or any rule or bye law made thereunder shall be signed— **Authentication and validity of notices issued by Cantonment Authority.**

(*a*) where there is a Board, either by the President of the Board or by the Executive Officer, or, where there is no Board, by the Executive Officer, or

(*b*) by the members of any committee especially authorised by the Cantonment Authority in this behalf.

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[1] These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

Service of notice, etc.

254. (*1*) Every notice, order or requisition issued under this Act or any rule or bye-law made thereunder shall, save as otherwise expressly provided, be served or presented—

(*a*) by giving or tendering the notice, order or requisition, or sending it by post, to the person for whom it is intended; or

(*b*) if such person cannot be found, by affixing the notice, order or requisition on some conspicuous part of his last known place of abode or business, if within the cantonment, or by giving or tendering the notice, order or requisition to some adult male member or servant of his family, or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.

(*2*) When any such notice, order or requisition is required or permitted to be served upon an owner, lessee or occupier of any building or land, it shall not be necessary to name the owner, lessee or occupier therein, and the service thereof shall, save as otherwise expressly provided, be effected either—

(*a*) by giving or tendering the notice, order or requisition, or sending it by post, to the owner, lessee or occupier, or, if there are more owners, lessees or occupiers than one, on any one of them; or

(*b*) if no such owner, lessee or occupier can be found, by giving or tendering the notice, order or requisition to the authorised agent, if any, of any such owner, lessee or occupier or to an adult male member or servant of the family of any such owner, lessee or occupier, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.

(*3*) When the person on whom a notice, order or requisition is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

Method of giving notice.

255. Every notice which, by or under this Act, is to be given or served as a public notice or as a notice which is not required to be given to any individual therein specified shall, save as otherwise expressly provided, be deemed to have been sufficiently given or served if a copy thereof is affixed in such conspicuous part of the office of the Cantonment Authority, or in such other public place, during such period or is published in such local newspaper or in such other manner, as the Cantonment Authority may direct.

Powers of Cantonment Authority in case of non-compliance with notice, etc.

256. In the event of non-compliance with the terms of any notice, order or requisition issued to any person under this Act, or any rule or bye-law made thereunder, requiring such person to execute any work or to do any act, it shall be lawful for the Cantonment Authority, whether or not the person in default is liable to punishment for such default or

has been prosecuted or sentenced to any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or work required to be done or executed by him, and all the expenses incurred on such account shall be recoverable by the Cantonment Authority.

Recovery of Money.

257. (*1*) If any such notice as is referred to in section 256 has been given to any person in respect of property of which he is the owner, the Cantonment Authority may require any occupier of such property or of any part thereof to pay to it, instead of to the owner, any rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 256 : **Liability of occupier to pay in default of owner.**

Provided that, if the occupier, on application made to him by the Cantonment Authority, refuses truly to disclose the amount of his rent or the name or address of the person to whom it is payable, the Cantonment Authority may recover from the occupier the whole amount recoverable under section 256.

(*2*) Any amount recovered from an occupier instead of from an owner under sub-section (*1*) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner.

258. (*1*) Where any person, by reason of his receiving the rent of immoveable property as an agent or trustee, or of his being as an agent or trustee the person who would receive the rent if the property were let to a tenant, would under this Act be bound to discharge any obligation imposed on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, funds in his hands belonging to the owner sufficient for the purpose. **Relief to agents and trustees.**

(*2*) The burden of proving any fact entitling an agent or trustee to relief under sub-section (*1*) shall lie upon him.

(*3*) Where any agent or trustee has claimed and established his right to relief under this section, the Cantonment Authority may, by notice in writing, require him to apply to the discharge of such obligation as aforesaid the first monies which may come to his hands on behalf, or for the use, of the owner, and, on failure to comply with the notice, he shall be deemed to be personally liable to discharge the obligation.

259. All money recoverable by a Cantonment Authority under this Act shall, save as otherwise expressly provided, be recoverable either by suit or, on application to a Magistrate, by the distress and sale of the moveable property of the person from whom it is recoverable, and, if payable by the owner of any property as such, it shall, until it is paid, be a charge on the property. **Method of recovery.**

(Chapter XV.—Powers, Procedure, Penalties and Appeals.)

Committees of Arbitration.

Application for a Committee of Arbitration.

260. In the event of any disagreement as to the liability of a Cantonment Authority to pay any compensation under this Act, or as to the amount of any compensation so payable, the person claiming such compensation may apply to the Cantonment Authority for the reference of the matter to a Committee of Arbitration, and the Cantonment Authority shall forthwith proceed to convene a Committee of Arbitration to determine the matter in dispute.

Procedure for convening Committee of Arbitration.

261. When a Committee of Arbitration is to be convened, the Cantonment Authority shall cause a public notice to be published stating the matter to be determined, and shall forthwith send copies of the order to the District Magistrate, and to the other party concerned, and shall, as soon as may be, nominate such members of the Committee as it is entitled to nominate under section 262, and, by notice in writing, call upon the other persons who are entitled to nominate a member or members of the Committee to nominate such member or members in accordance with the provisions of that section.

Constitution of Committee of Arbitration.

262. (*1*) Every Committee of Arbitration shall consist of five members, namely :—

(*a*) a Chairman who shall be a person not in the service of the Government or the Cantonment Authority, and who shall be nominated by the [1][Officer Commanding the station];

(*b*) two persons nominated by the Cantonment Authority; and

(*c*) two persons nominated by the other party concerned, who shall be persons liable to pay taxes in the cantonment and ordinarily resident therein or in the immediate vicinity thereof.

(*2*) If the Cantonment Authority or the other party concerned or the [1][Officer Commanding the station] fails within seven days of the date of issue of the notice referred to in section 261 to make any nomination which it or he is entitled to make or, if any member who has been so nominated neglects or refuses to act and the Cantonment Authority or other person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which it or he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members, as the case may be, to fill the vacancy or vacancies.

No person to be nominated who has direct interest or whose services are not immediately available.

263. (*1*) No person who has a direct interest in the matter under reference, or whose services are not immediately available for the purposes of the Committee, shall be nominated a member of a Committee of Arbitration.

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1 These words were substituted by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

(2) If, in the opinion of the District Magistrate, any person who has been nominated has a direct interest in the matter under reference, or is otherwise ... e services of any such person are ... and if the Cantonment Authority or other person by whom any such person was nominated fails to nominate another member within seven days from the date on which it or he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 262

264. (1) When a Committee of Arbitration has been duly constituted, the Cantonment Authority shall, by notice in writing, inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter. **Meetings and powers of Committees of Arbitration.**

(2) The Chairman of the Committee shall fix the time and place of meetings, and shall have power to adjourn any meeting from time to time as may be necessary.

(3) The Committee shall receive and record evidence, and shall have power to administer oaths to witnesses, and, on requisition in writing signed by the Chairman of the Committee, the District Magistrate shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself

265. (1) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the Chairman and at least three of the other members are present. **Decisions of Committees of Arbitration.**

(2) If there is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail

(3) The decision of a Committee of Arbitration shall be final and shall not be questioned in any Court

Prosecutions.

266. Save as otherwise expressly provided in this Act, no Court shall proceed to the trial of any offence made punishable by or under this Act, other than an offence specified in Schedule IV, except on the complaint of, or upon information received from, the Cantonment Authority concerned or a person authorised by the Cantonment Authority by a general or special order in this behalf **Prosecutions.**

267. (1) A Cantonment Authority, or any person authorised by it, by general or special order in this behalf, may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act other than an offence under Chapter XIV: **Composition of offences.**

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Cantonment Authority, unless and until the same has been complied with in so far as compliance is possible.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

General Penalty Provisions.

General penalty.

268. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to twenty rupees for every day after the first during which he has persisted in the failure or contravention.

Cancellation and suspension of licences.

269. Where any person to whom a licence has been granted under this Act or any agent or servant of such person commits a breach of any of the conditions thereof, or of any bye-law made under this Act for the purpose of regulating the manner or circumstances in, or the conditions subject to, which anything permitted by such licence is to be or may be done, the Cantonment Authority may, without prejudice to any other penalty which may have been incurred under this Act, by order in writing, cancel the licence or suspend it for such period as it thinks fit.

Provided that no such order shall be made until an opportunity has been given to the holder of the licence to show cause why it should not be made.

Recovery of amount payable in respect of damage to cantonment property.

270. Where any person has incurred a penalty by reason of having caused any damage to the property of a Cantonment Authority, he shall be liable to make good such damage, and the amount payable in respect of the damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and, on non-payment of such amount on demand, the same shall be recovered by distress and sale of the moveable property of such person, and the Magistrate shall issue a warrant for its recovery accordingly.

Limitation.

Limitation for prosecution.

271. No Court shall try any person for an offence made punishable by or under this Act, after the expiry of six months from the date of the commission of the offence, unless complaint in respect of the offence has been made to a Magistrate within the six months aforesaid.

(Chapter XV—Powers, Procedure, Penalties and Appeals)

Suits

Protection of Cantonment Authority Executive Officer etc

272 No suit or prosecution shall be entertained in any Court against any Cantonment Authority or authority appointed under sub section (2) of section 10, or against any [1][Officer Commanding a station], or against any member of a Board or against any officer or servant of a Cantonment Authority, for anything in good faith done, or intended to be done, under this Act or any rule or bye law made thereunder

Notice to be given of suits

273 (1) No suit shall be instituted against any Cantonment Authority or against any member of a Board, or against any officer or servant of a Cantonment Authority in respect of any act done, or purporting to have been done in pursuance of this Act or of any rule or bye law made thereunder until the expiration of two months after notice in writing has been left at the office of the Cantonment Authority, and, in the case of such member officer or servant, unless notice in writing has also been delivered to him or left at his office or place of abode, and unless such notice states explicitly the cause of action, the nature of the relief sought the amount of compensation claimed, and the name and place of abode of the intending plaintiff, and unless the plaint contains a statement that such notice has been so delivered or left

(2) If the Cantonment Authority, member, officer or servant has, before the suit is instituted, tendered sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered, and shall also pay all costs incurred by the defendant after such tender

(3) No suit, such as is described in sub section (1) shall unless it is an action for the recovery of immoveable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises

(4) Nothing in sub section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit or proceeding

Appeals and Revision

Appeals from executive orders

274 (1) Any person aggrieved by any order described in the second column of Schedule V may appeal to the authority specified in that behalf in the third column thereof

(2) No such appeal shall be admitted if it is made after the expiry of the period specified in that behalf in the fourth column of the said Schedule

[1] These words were substituted by s. 11 of the Cantonments (Amendment) Act, 1925 (7 of 1925)

(Chapter XV.—Powers, Procedure, Penalties and Appeals.)

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Cantonment Authority, unless and until the same has been complied with in so far as compliance is possible.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

General Penalty Provisions.

General penalty.

268. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to twenty rupees for every day after the first during which he has persisted in the failure or contravention.

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269. Where any person to whom a licence has been granted under this Act or any agent or servant of such person commits a breach of any of the conditions thereof, or of any bye-law made under this Act for the purpose of regulating the manner or circumstances in, or the conditions subject to, which anything permitted by such licence is to be or may be done, the Cantonment Authority may, without prejudice to any other penalty which may have been incurred under this Act, by order in writing, cancel the licence or suspend it for such period as it thinks fit.

Provided that no such order shall be made until an opportunity has been given to the holder of the licence to show cause why it should not be made.

Recovery of amount payable in respect of ... to ... tonment property.

270. Where any person has incurred a penalty by reason of having caused any damage to the property of a Cantonment Authority, he shall be liable to make good such damage, and the amount payable in respect of the damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and, on non-payment of such amount on demand, the same shall be recovered by distress and sale of the moveable property of such person, and the Magistrate shall issue a warrant for its recovery accordingly.

Limitation.

Limitation for prosecution.

271. No Court shall try any person for an offence made punishable by or under this Act, after the expiry of six months from the date of the commission of the offence, unless complaint in respect of the offence has been made to a Magistrate within the six months aforesaid.

(Chapter XV—Powers, Procedure, Penalties and Appeals)

Suits

Protection of Cantonment Authority, Executive Officer etc

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(3) No suit, such as is described in sub section (1) shall unless it is an action for the recovery of immoveable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises

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(2) No such appeal shall be admitted if it is made after the expiry of the period specified in that behalf in the fourth column of the said Schedule

1 These words were substituted by s. 11 of the Cantonments (Amendment) Act, 1925 (7 of 1925)

(Chapter XV.—Powers, Procedure, Penalties and Appeals. Chapter XVI.—Rules and Bye-Laws.)

(3) The period specified as aforesaid shall be computed in accordance with the provisions of the Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder.

Petition of appeal.

275. (1) Every appeal under section 274 shall be made by petition in writing accompanied by a copy of the order appealed against.

(2) Any such petition may be presented to the authority which made the order against which the appeal is made, and that authority shall be bound to forward it to the appellate authority, and may attach thereto any report which it may desire to make by way of explanation.

Suspension of action pending appeal.

276. On the admission of an appeal from an order, other than an order contained in a notice issued under clause (a) of section 137, section 140, section 176, or section 238, all proceedings to enforce the order and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and, if the order is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

Revision.

277. [1]* * * * *

[2][(1)] Where an appeal from an order made by the Cantonment Authority has been disposed of by the District Magistrate, the Cantonment Authority may, within thirty days from the date thereof, apply, through the [3][Officer Commanding-in-Chief, the Command], to the Local Government, or to such authority as the Local Government may appoint in this behalf, for a revision of the decision.

[4][(2)] The provisions of this Chapter with respect to appeals shall apply, as far as may be, to applications for revision made under this section.

Finality of appellate orders.

278. Save as otherwise provided in section 277, every order of an appellate authority shall be final.

Right of appellant to be heard.

279. No appeal shall be decided under this Chapter unless the appellant has been heard, or has had a reasonable opportunity of being heard in person or through a legal practitioner.

CHAPTER XVI.

Rules and Bye-Laws.

Power to make rules.

280. (1) The Governor General in Council may, after previous publication, make rules[5] to carry out the purposes and objects of this Act.

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1 The original sub-section (1) was omitted by s. 9 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

2 Sub-section (2) was re-numbered (1), *ibid.*

3 These words were substituted, *ibid.*

4 Sub-section (3) was renumbered (2), *ibid.*

5 For rules made under this section and called the Cantonment Account Code, 1924, the Cantonment Land Administration Rules, 1925, and the Cantonment Fund Servants Rules, 1925, *see* Gen. R. and O. Vol. V, pp. 470—611.

(*Chapter XVI —Rules and Bye Laws*)

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(*a*) the manner in which, and the authority to which, application for permission to occupy land belonging to Government in a cantonment is to be made,

(*b*) the authority by which such permission may be granted and the conditions to be annexed to the grant of any such permission,

[1][(*bb*) the allotment to a Cantonment Authority of a share of the rents and profits accruing from property entrusted to its management under the provisions of section 116A]

(*c*) the appointment, control, supervision, suspension, removal, dismissal and punishment of servants of Cantonment Authorities,

(*d*) the circumstances in which security shall be demanded from servants of Cantonment Authorities and the amount and nature of such security,

(*e*) the grant of leave, absentee or acting allowance to servants of Cantonment Authorities,

(*f*) the creation and management of Provident Funds, and the circumstances in which, and the conditions subject to which, contributions thereto shall be made from cantonment funds and by servants of Cantonment Authorities

(*g*) the keeping of accounts by Cantonment Authorities and the manner in which such accounts shall be audited and published,

(*h*) the definition of the persons by whom, and the manner in which money may be paid out of a cantonment fund,

[2][(*hh*) the circumstances in which and the conditions subject to which remissions and refunds [3][may be made of taxes assessed on the annual value] of buildings in hill Cantonments,]

(*i*) the preparation of estimates of income and expenditure by Cantonment Authorities and the definition of the persons by whom and the conditions subject to which, such estimates may be sanctioned,

(*j*) the regulation of the procedure of Committees of Arbitration, and

1 This clause was inserted by s 12 of the Cantonments (Amendment) Act, 1925 (7 of 1925)

2 This clause was inserted by s 10 of the Cantonments (Amendment) Act 1926 (35 of 1926)

3 These words were substituted by s 13 of the Cantonments (Amendment) Act, 1927 (26 of 1927)

(Chapter XVI.—Rules and Bye-Laws.)

(*k*) the prescribing of registers, statements and forms to be used and maintained by any authority for the purposes of this Act.

Supplemental provisions respecting rules.

231. (*1*) A rule under section 280 may be made either generally for all cantonments or for the whole or any part of any one or more cantonments.

(*2*) All rules so made shall be published in the Gazette of India and in such other manner, if any, as the Governor General in Council may direct and, on such publication, shall have effect as if enacted in this Act.

Power to make bye-laws.

282. Subject to the provisions of this Act and of the rules made thereunder, a Cantonment Authority may, in addition to any bye-laws which it is empowered to make by any other provision of this Act, make bye-laws to provide for all or any of the following matters in the cantonment, namely:—

(*1*) the registration of births, deaths and marriages, and the taking of a census;

(*2*) the enforcement of compulsory vaccination;

(*3*) the regulation of the collection and recovery of taxes, tolls and fees under this Act and the refund of taxes;

(*4*) the regulation or prohibition of any description of traffic in the streets;

(*5*) the manner in which vehicles standing, driven, led or propelled in the streets between sunset and sunrise shall be lighted;

(*6*) the seizure and confiscation of ownerless animals straying within the limits of the cantonment;

(*7*) the prevention and extinction of fire;

(*8*) the construction of scaffolding for building operations to secure the safety of the general public and of persons working thereon;

(*9*) the regulation in any manner not specifically provided for in this Act of the construction, alteration, maintenance, preservation, cleaning and repairs of drains, ventilation-shafts, pipes, water-closets, privies, latrines, urinals, cesspools and other drainage works;

(*10*) the regulation or prohibition of the discharge into, or deposit in, drains of sewage, polluted water and other offensive or obstructive matter;

(*11*) the regulation or prohibition of the stabling or herding of animals, or of any class of animals, so as to prevent danger to public health;

(*12*) the proper disposal of corpses, the regulation and management of burial and burning places and other places for the disposal of corpses, and the fees chargeable for the use of such places

(*Chapter XVI —Rules and Bye Laws*)

where the same are provided or maintained by Government or at the expense of the cantonment fund,

(*13*) the permission regulation or prohibition of the use or occupation of any street or place by itinerant vendors or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall and the fees chargeable for such use or occupation

(*14*) the regulation and control of encamping grounds pounds, washing places serais hotels, dak bungalows lodging-houses boarding houses buildings let in tenements residential clubs restaurants eating houses cafes refreshment-rooms and places of public recreation entertainment or resort;

(*15*) the regulation of the ventilation, lighting cleansing drainage and water supply of the buildings used for the manufacture or sale of aerated or other potable waters and of butter, milk, sweet meats and other articles of food or drink for human consumption,

(*16*) the matters regarding which conditions may be imposed by licences granted under section 210

(*17*) the control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise any injurious offensive or dangerous effects arising or likely to arise therefrom

(*18*) the regulation of the erection of any enclosure fence tent awning or other temporary structure of whatsoever material or nature on any land situated within the cantonment

(*19*) the laying out of streets and the regulation and prohibition of the erection of buildings without adequate provision being made for the laying out and location of streets

(*20*) the regulation of the use of public parks and gardens and other public places and the protection of avenues trees grass and other appurtenances of streets and other public places

(*21*) the regulation of the grazing of animals

(*22*) the fixing and regulation of the use of public bathing and washing places

(*23*) the regulation of the posting of bills and advertisements and of the position size shape or style of name boards sign-boards and sign posts

(*24*) the fixation of a method for the sale of articles whether by measure weight piece or any other method

(*25*) the rendering necessary of licences within the cantonment—

(*a*) for persons working as job porters for the conveyance of goods,

(*b*) for animals or vehicles let out on hire,

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(*c*) for the proprietors or drivers of vehicles, boats or other conveyances, or of animals kept or plying for hire; or

(*d*) for persons impelling or carrying such vehicles or other conveyances;

(*26*) the prescribing of the fee payable for any licence required under clause (*25*), and of the conditions subject to which such licences may be granted, revised, suspended or withdrawn;

(*27*) the regulation of the charges to be made for the services of such job porters and of the hire of such animals, vehicles or other conveyances, and for the remuneration of persons impelling or carrying such vehicles or conveyances as are referred to in clause (*25*);

(*28*) the regulation or prohibition, for purposes of sanitation or the prevention of disease or the promotion of public safety or convenience, of any act which occasions or is likely to occasion a nuisance, and for the regulation or prohibition of which no provision is made elsewhere by or under this Act;

(*29*) the circumstances and the manner in which owners of buildings or land in the cantonment, who are temporarily absent from, or are not resident in, the cantonment, may be required to appoint as their agents, for all or any of the purposes of this Act or of any rule or bye-law made thereunder, persons residing within or near the cantonment;

(*30*) the prevention of the spread of infectious or contagious diseases within the cantonment;

(*31*) the segregation in, or the removal and exclusion from, the cantonment, or the destruction, of animals suffering or reasonably suspected to be suffering from any infectious or contagious disease;

(*32*) the supervision, regulation, conservation and protection from injury, contamination or trespass of sources and means of public water-supply and of appliances for the distribution of water whether within or without the limits of the cantonment;

(*33*) the manner in which connections with water-works may be constructed or maintained, and the agency which shall or may be employed for such construction and maintenance;

(*34*) the regulation of all matters and things relating to the supply and use of water including the collection and recovery of charges therefor and the prevention of evasion of the same;

(*35*) the maintenance of schools, and the furtherance of education generally;

(*36*) the regulation or prohibition of the cutting or destruction of trees or shrubs, or of the making of excavations, or of the removal

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of soil or quarrying, where such regulation or prohibition appears to the Cantonment Authority to be necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of landslips or of the formation of ravines or torrents, or the protection of land against erosion, or against the deposit thereon of sand, gravel or stones,

(37) the rendering necessary of licences for the use of premises within the cantonment as stables or cowhouses or as accommodation for sheep, goats or fowls

(38) the control of the use in the cantonment of mechanical whistles, syrens or trumpets, and

(39) generally for the regulation of the administration of the cantonment under this Act

283. Any bye law made by a Cantonment Authority under this Act may provide that a contravention thereof shall be punishable— Penalty for breach of bye laws

(a) with fine which may extend to one hundred rupees, or

(b) with fine which may extend to one hundred rupees and, in the case of a continuing contravention, with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention, or

(c) with fine which may extend to ten rupees for every day during which the contravention continues after the receipt of a notice from the Cantonment Authority by the person contravening the bye law requiring such person to discontinue such contravention

284. (1) Any power to make bye laws conferred by this Act is conferred subject to the condition of the bye laws being made after previous publication and of their not taking effect until they have been approved and confirmed by the Local Government and published in the local official Gazette Supplemental provisions regarding bye-laws.

(2) The Local Government in confirming a bye-law may make any change therein which appears to it to be necessary

(3) The Local Government may, after previous publication of its intention, cancel any bye law which it has confirmed, and thereupon the bye law shall cease to have effect

285. (1) A copy of all rules and bye laws made under this Act shall be kept at the office of the Cantonment Authority and shall, during office hours, be open free of charge to inspection by any inhabitant of the cantonment Rules and bye laws to be available for inspection and purchase

(2) Copies of all such rules and bye laws shall be kept at the office of the Cantonment Authority for sale to the public

to prove any matter or transaction recorded therein save by order of the Court made for special cause.

7 of 1899. **291.** For the purposes of the Government Buildings Act, 1899, cantonments and Cantonment Authorities shall be deemed to be municipalities and municipal authorities respectively. Application of Act IV of 1899.

292. [*Repeals.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

SCHEDULE I

NOTICE OF DEMAND

(*See section 91.*)

To

residing at

Take notice that the Cantonment Authority demands from the sum of due from on account of (here describe the property, occupation, circumstance or thing in respect of which the sum is payable) leviable under for the period of commencing on the day of 19 , and ending on the day of 19 , and that if, within thirty days from the service of this notice, the said sum is not paid to the Cantonment Authority at , or sufficient cause for non payment is not shown to the satisfaction of the Executive Officer, a warrant of distress will be issued for the recovery of the same with costs.

Dated this day of 19 .

(Signed)

Executive Officer,
Cantonment.

SCHEDULE II

FORM OF WARRANT

(*See section 92.*)

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas A. B. of has not paid, and has not shown satisfactory cause for the non payment of, the sum of

*(Here describe the liability.)

due on account of * for the period of commencing on the day of 19 , and ending with the day of 19 , which sum is leviable under ;

And whereas thirty days have elapsed since the service on him of notice of demand for the same;

This is to command you to distrain, subject to the provisions of the Cantonments Act, 1924, the moveable property of the said A. B. to the amount of the said sum of Rs. ; and forthwith to certify to me, together with this warrant, all particulars of the property seized by you thereunder.

Dated this day of 19 .

(Signed)

Executive Officer,
Cantonment.

SCHEDULE III.

Form of Inventory of Property distrained and Notice of Sale.

(*See section 93.*)

To
residing at

*(Here describe the liability.)

Take notice that I have this day seized the property specified in the inventory annexed hereto, for the value of due for the liability* mentioned in the margin for the period commencing with the day of 19 , and ending with the day of 19 , together with Rs. due for service of notice of demand, and that, unless within seven days from the date of the service of this notice you pay to the Cantonment Authority the said amount, together with the costs of recovery, the said property will be sold by public auction.

Dated this day of 19 .

(*Signature of officer executing the warrant.*)

Inventory.

(Here state particulars of property seized.)

SCHEDULE IV

CASES IN WHICH POLICE MAY ARREST WITHOUT WARRANT

(See section 250.)

1 Section	2 Subject
	PART A
118 (*1*) (*a*) (*i*)	Drunkenness, etc.
167	Making or selling of food, etc., or washing of clothes, by infected person.
	PART B
118 (*1*) (*a*) (*ii*)	Using threatening or abusive words, etc.
118 (*1*) (*a*) (*iii*)	Indecent exposure of person, etc.
118 (*1*) (*a*) (*iv*)	Begging.
118 (*1*) (*a*) (*v*)	Exposing deformity, etc.
118 (*1*) (*a*) (*vii*)	Gaming.
118 (*1*) (*a*) (*xii*)	Destroying notice, etc.
118 (*1*) (*a*) (*xiii*)	Breaking direction post, etc.
118 (*1*) (*f*)	Keeping common gaming house, etc.
118 (*1*) (*g*)	Beating drum, etc.
118 (*1*) (*h*)	Singing, etc., so as to disturb public peace or order.
119 (*6*)	Letting loose, or setting on, ferocious dog.
125	Discharging fire arms, etc., so as to cause danger.
176 (*1*)	Remaining in, or re-entering cantonment after notice of expulsion for failure to attend hospital or dispensary.
193 (*2*)	Destroying, etc., name of street or number affixed to building.
214	Feeding animal on filth, etc.
236	Loitering or importuning for sexual immorality.
240 (*a*)	Remaining in, or returning to, a cantonment after notice of expulsion.

SCHEDULE V.

APPEALS FROM ORDERS.

(*See section 274.*)

1 Section.	2 Executive Order.	3 Appellate Authority.	4 Time allowed for appeal.
126	Cantonment Authority's notice to repair, protect or enclose a building, wall or anything affixed thereto or well, tank, reservoir, pool, depression or excavation.	[1][Officer Commanding-in-Chief, the Command].	Thirty days from service of notice.
134	Cantonment Authority's notice to fill up well, tank, etc., or to drain off or remove water.	[1][Officer Commanding-in-Chief, the Command].	Thirty days from service of notice.
137	Cantonment Authority's notice to provide sufficient drainage, etc.	[1][Officer Commanding-in-Chief, the Command].	Fifteen days from service of notice.
140	Cantonment Authority's notice requiring a building to be repaired or altered so as to remove sanitary defects.	[1][Officer Commanding-in-Chief, the Command].	Thirty days from service of notice.
176	Order of [2][Officer Commanding the station] on report of Medical Officer, directing a person to remove from the cantonment and prohibiting him from re-entering it without permission.	[1][Officer Commanding-in-Chief, the Command].	Thirty days from service of notice.
181	Cantonment Authority's refusal to sanction the erection or re-erection of a building.	[1][Officer Commanding-in-Chief, the Command].	Thirty days from date of refusal.
185	Cantonment Authority's notice to alter or demolish a building.	[1][Officer Commanding-in-Chief, the Command].	Thirty days from service of notice.

1 These words were substituted by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

2 These words were substituted by s. 13 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

SCHEDULE V—contd.

1 Section	2 Executive Order	3 Appellate Authority	4 Time allowed for appeal.
188	Cantonment Authority's notice to pull down or otherwise deal with a building newly erected or re-built without permission over a sewer, drain, culvert, water-course or water-pipe.	[1][Officer Commanding-in-Chief, the Command.]	Thirty days from service of notice.
206	Cantonment Authority's notice prohibiting or restricting the use of a slaughter-house.	[1][Officer Commanding-in-Chief, the Command.]	Twenty-one days from service of notice.
238	Magistrate's notice directing disorderly person to remove from cantonment and prohibiting him from re-entering it without permission.	District Magistrate	Thirty days from service of notice.

SCHEDULE VI

[Enactments repealed.] Repealed by the Repealing Act, 1927 (12 of 1927).

ACT No. III OF 1924[2]

[1st March, 1924.]

An Act to regulate the entry into and residence in British India of persons domiciled in other British Possessions.

WHEREAS it is expedient to make provision for regulating the entry into and residence in British India of persons domiciled in the British Possessions on a basis of reciprocity; It is hereby enacted as follows:—

1. (1) This Act may be called the Immigration into India Act, 1924. Short title, commencement and extent.

[1] These words were substituted by s. 3 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

[2] For Statement of Objects and Reasons see Gazette of India, 1923, Pt. V, p. 406.

(2) It shall come into force on such date as the Governor General in Council may notify in the Gazette of India.

(3) It shall extend to the whole of British India, including British Baluchistan.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "British Possession" means any part of His Majesty's Dominions other than British India, the United Kingdom and Ireland, and includes Protectorates and territories which are or may be administered by a Dominion as a mandatory on behalf of the League of Nations;

(b) "entry" includes landing at any port in British India during the period of the ship's stay on her way to a destination outside British India.

Rules as regards entry into and residence in British India.

3. The Governor General in Council may make rules for the purpose of securing that persons not being of Indian origin, domiciled in any British Possession, shall have no greater rights and privileges, as regards entry into and residence in British India, than are accorded by the law and administration of such Possession to persons of Indian domicile.

Power to make rules.

4. The Governor General in Council may, without prejudice to the generality of the powers contained in section 3 of this Act, make rules—

(a) to provide for the establishment of a suitable agency to administer the rules and to define its functions and powers;

(b) to provide suitable penalties for the contravention of such rules or attempt to contravene them, or the abetment of such contravention; and

(c) to authorise the arrest of any person contravening or reasonably suspected of contravening any such rule, and to prescribe the duties of public servants and others in regard to such arrests.

Person claiming exemption to establish case.

5. If any person alleged to be domiciled in any British Possession and to be subject to the provisions of this Act raises the plea that he is not so domiciled or that the provisions of the said Act do not apply to him, the onus of proving the truth of such plea shall lie on the aforesaid person.

ACT No IV of 1924 [1]

[*13th March, 1924*]

An Act to provide for the constitution of a Central Board of Revenue and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Board

WHEREAS it is expedient to provide for the constitution of a Central Board of Revenue and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Board, It is hereby enacted as follows —

Short title and commencement.

1 (*1*) This Act may be called the Central Board of Revenue Act, 1924

(*2*) It shall come into force on the first day of April, 1924

Constitution of Central Board of Revenue

2 As soon as may be after the commencement of this Act, the Governor General in Council shall constitute a Central Board of Revenue,[2] consisting of one or more persons appointed by him, which shall be subject to the control of the Governor General in Council in the exercise of such powers and the performance of such duties as may be entrusted to it by the Governor General in Council or by or under any law

Procedure of the Board.

3 The Governor General in Council may make rules[3] for the purpose of regulating the transaction of business by the Central Board of Revenue, and every order made or act done in accordance with such rules shall be deemed to be the order or act as the case may be, of the Central Board of Revenue

Amendments of enactments.

4 The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof

Provided that where the power to make any appointment, or issue any notification, order, scheme or rule, or prescribe any form, is transferred by the operation of this Act from any authority to the Central Board of Revenue or any other authority, any such appointment notification, order, scheme, rule, or form made issued or prescribed by the first mentioned authority before the commencement of this Act shall continue in force and be deemed to have been made, issued or prescribed by the Central Board of Revenue or such other authority, as the case may be, unless and until it is superseded by an appointment, notification, order scheme rule, or form made issued or prescribed by the said Board or authority

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1 For Statement of Objects and Reasons *see* Gazette of India 1924 Pt V p 30, and for Report of the Select Committee *see ibid* p 37

2 For Notification constituting a Central Board of Revenue *see* Gen R & O Vol V, p 612

3 For such rules *see ibid*

THE SCHEDULE.

ENACTMENTS AMENDED.

(See section 4.)

Year.	No.	Short title.	Amendments.
1878	VIII	The Sea Customs Act, 1878.	1. In section 3— (*1*) for clause (*a*) the following clause shall be substituted, namely :— "(*a*) 'Chief Customs-authority' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, and includes, in relation to any power or duty which the Governor General in Council may, by notification in the Gazette of India, transfer from the Central Board of Revenue to a Local Government, the Local Government or such officer as the Local Government may appoint in that behalf"; and (*2*) after clause (*j*) the following clause shall be inserted, namely :— "(*k*) 'official Gazette' means, in relation to a notification issued by a Local Government, the local official Gazette and, in relation to a notification issued by the Central Board of Revenue, the Gazette of India." 2. For section 6 the following section shall be substituted, namely :— "6. The Governor General in Council may appoint such persons as he thinks fit to be officers of Customs, and to exercise the powers conferred, and perform the duties imposed, by this Act on such officers." [Appointment of Customs-officers.] 3. For section 7 the following section shall be substituted, namely :— "7. The Governor General in Council may delegate to any Local Government or to the Chief Customs-authority any power conferred upon him by section 6, and the Local Government or the Chief Customs-authority may delegate to any officer of Customs any power so delegated to it." [Delegation of powers under section 6.] 4. In sections 11, 12 and 14, for the words "The Local Government or, if so authorised by the Local Government, the Chief Customs-authority" the words "The Chief Customs-authority" shall be substituted, and in section 11, the words "within the territories administered by it" shall be omitted.

Year	No	Short title	Amendments
1878	VIII	The Sea Customs Act, 1878—*contd*	5 In section 23, for the words "The Local Government" the words "The Chief Customs authority" shall be substituted 6 In sections 53, 74, 76, 79, 85 96, 116, 128, 133 and 147, the word "local," wherever it occurs in the expression "local official Gazette," shall be omitted 7 In section 88, for the words "the Local Government may from time to time direct" the words "the Chief Customs authority may, with the concurrence of the Local Government, direct" shall be substituted 8 In section 128, for the words "the Local Government' the words "the Chief Customs authority" shall be substituted 9 In section 133, for the words "the Local Government, subject to the control of the Governor General in Council" the words "the Chief Customs authority" shall be substituted 10 In section 165, after the words "the Local Government may" the words "with the previous sanction of the Governor General in Council" shall be inserted, and for the words "by its own officers' the words "by officers of Government" shall be substituted 11 In section 167, for the words "The Local Government" the words "The Governor General in Council" shall be substituted 12 In section 188 for the words "the Local Government," in both places where they occur, the words "the Governor General in Council" shall be substituted 13 In section 191, for the words "The Local Government" the words "The Governor General in Council' shall be substituted 14 After section 204 the following section shall be inserted, namely — "205 Any notification published in the Gazette of India by the Chief Customs authority under section 53, section 74 section 76, section 79, section 85, section 96, section 116, section 128, section 133 or section 147 shall forthwith be republished in the local official Gazette of each province to which it relates" *Publication of notifications in local official Gazettes*
[1] *	*	*	* * * * *

[1] The entry relating to Act, 2 of 1896, was repealed by the Repealing Act, 1927 (12 of 1927)

Year.	No.	Short title.	Amendments.
1908	X	The Indian Salt-duties Act, 1908.	In section 2, for the words "the Local Government" the words and figures "if so empowered by the Governor General in Council, the Local Government or the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924" shall be substituted.
1914	III	The Indian Copyright Act, 1914.	In sub-section (2) of section 6, for the words "the Local Government" the words "the Chief Customs-authority" shall be substituted.
1922	XI	The Indian Income-tax Act, 1922.	1. After clause (4) of section 2 the following clause shall be inserted, namely:— "(4A) 'the Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924." 2. In section 5— (i) in clause (a) of sub-section (1), for the words "a Board of Inland Revenue" the words "the Central Board of Revenue" shall be substituted; and (ii) sub-section (2) shall be omitted. 3. In clauses (6) and (11) of section 2, in sub-section (5) of section 5, in sub-section (6) of section 18, in sub-section (5) of section 46, in sub-section (1) of section 59, and in sub-section (3) of section 64, for the words "the Board of Inland Revenue" the words "the Central Board of Revenue" shall be substituted.

ACT No. V OF 1924.[1]

[*13th March, 1924.*]

An Act further to amend the Indian Penal Code for certain purposes.

WHEREAS it is expedient further to amend the Indian Penal Code for certain purposes hereinafter appearing; It is hereby enacted as follows:— XLV of 1860.

Short title and commencement. **1.** (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 1924.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of sections 372 and 373, Act XLV of 1860. **2.** In sections 372 and 373 of the Indian Penal Code, for the word "sixteen" the word "eighteen" shall be substituted. XLV of 1860.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 13, and for Report of Select Committee, *see ibid*, p. 43. This Act is now virtually repealed in view of the amendments made in sections 372 and 373 of the Indian Penal Code by Act 18 of 1924.

[2] This Act was brought into force on the 1st May, 1924, *see* Gen. R. & O., Vol. V, p. 613.

ACT No VI of 1924[1]

[*15th March, 1924*]

An Act to consolidate the law relating to Criminal Tribes.

WHEREAS it is expedient to consolidate the law relating to criminal tribes, It is hereby enacted as follows —

Preliminary

1. (*1*) This Act may be called the Criminal Tribes Act, 1924 **Short title and extent**

(*2*) It extends to the whole of British India

2. In this Act, unless there is anything repugnant in the subject or context,— **Definitions**

(*1*) " district " includes a Presidency-town and the town of Rangoon;

(*2*) " District Magistrate " means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police,

(*3*) " prescribed " means prescribed by rules made under this Act, and

(*4*) " Superintendent of Police " means, in the case of a Presidency-town or the town of Rangoon, any officer appointed by the Local Government to perform the duties of a Superintendent of Police under this Act

Notification of Criminal Tribes

3. If the Local Government has reason to believe that any tribe, gang or class of persons, or any part of a tribe, gang or class, is addicted to the systematic commission of non bailable offences, it may, by notification in the local official Gazette, declare that such tribe, gang or class or, as the case may be, that such part of the tribe, gang or class is a criminal tribe for the purposes of this Act **Power to declare any tribe, gang or class a criminal tribe**

Registration of Members of Criminal Tribes

4. The Local Government may direct the District Magistrate to make or to cause to be made a register of the members of any criminal tribe, or part of a criminal tribe, within his district **Registration of members of criminal tribes**

5. Upon receiving such direction, the District Magistrate shall publish notice in the prescribed manner at the place where the register is to be made and at such other places as he may think fit, calling upon all the members of the criminal tribe or part, as the case may be,— **Procedure in making register**

(*a*) to appear at a time and place therein specified before a person appointed by him in this behalf,

[1] For Statement of Objects and Reasons see Gazette of India, 1924 Pt V p 7

Year.	No.	Short title.	Amendments.
1908	X	The Indian Salt-duties Act, 1908.	In section 2, for the words "the Local Government" the words and figures "if so empowered by the Governor General in Council, the Local Government or the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924" shall be substituted.
1914	III	The Indian Copyright Act, 1914.	In sub-section (2) of section 6, for the words "the Local Government" the words "the Chief Customs-authority" shall be substituted.
1922	XI	The Indian Income-tax Act, 1922.	1. After clause (1) of section 2 the following clause shall be inserted, namely:— "(1A) 'the Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924." 2. In section 5— (i) in clause (a) of sub-section (1), for the words "a Board of Inland Revenue" the words "the Central Board of Revenue" shall be substituted; and (ii) sub-section (2) shall be omitted. 3. In clauses (6) and (11) of section 2, in sub-section (5) of section 5, in sub-section (6) of section 18, in sub-section (5) of section 46, in sub-section (1) of section 59, and in sub-section (3) of section 64, for the words "the Board of Inland Revenue" the words "the Central Board of Revenue" shall be substituted.

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Amendment of sections 372 and 373, Act XLV of 1860.

2. In sections 372 and 373 of the Indian Penal Code, for the word "sixteen" the word "eighteen" shall be substituted. XLV of 1860.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 13, and for Report of Select Committee, *see ibid*, p. 43. This Act is now virtually repealed in view of the amendments made in sections 372 and 373 of the Indian Penal Code by Act 18 of 1924.

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Preliminary

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2. In this Act, unless there is anything repugnant in the subject or context,— — Definitions

(*1*) "district" includes a Presidency-town and the town of Rangoon;

(*2*) "District Magistrate" means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police,

(*3*) "prescribed" means prescribed by rules made under this Act, and

(*4*) "Superintendent of Police" means, in the case of a Presidency-town or the town of Rangoon, any officer appointed by the Local Government to perform the duties of a Superintendent of Police under this Act

Notification of Criminal Tribes

3 If the Local Government has reason to believe that any tribe, gang or class of persons, or any part of a tribe, gang or class, is addicted to the systematic commission of non bailable offences, it may, by notification in the local official Gazette, declare that such tribe, gang or class or, as the case may be, that such part of the tribe, gang or class is a criminal tribe for the purposes of this Act — Power to declare any tribe, gang or class a criminal tribe

Registration of Members of Criminal Tribes

4. The Local Government may direct the District Magistrate to make or to cause to be made a register of the members of any criminal tribe, or part of a criminal tribe, within his district — Registration of members of criminal tribes

5. Upon receiving such direction, the District Magistrate shall publish notice in the prescribed manner at the place where the register is to be made and at such other places as he may think fit, calling upon all the members of the criminal tribe or part, as the case may be,— — Procedure in making register

(*a*) to appear at a time and place therein specified before a person appointed by him in this behalf,

[1] For Statement of Objects and Reasons, see Gazette of India, 1924, Pt V p 7

(*b*) to give to that person such information as may be necessary to enable him to make the register; and

(*c*) to allow their finger-impressions to be recorded:

Provided that the District Magistrate may exempt any member from registration and may cancel any such exemption.

Charge of register.

6. The register, when made, shall be placed in the keeping of the Superintendent of Police, who shall, from time to time, report to the District Magistrate any alterations which ought in his opinion to be made therein, either by way of addition or erasure.

Alterations in register.

7. (*1*) After the register has been placed in the keeping of the Superintendent of Police, no person's name shall be added to the register, and no registration shall be cancelled, except by, or under an order in writing of, the District Magistrate.

(*2*) Before the name of any person is added to the register under this section, the Magistrate shall give notice in the prescribed manner to the person concerned—

(*a*) to appear before him or an authority appointed by him in this behalf at a time and place therein specified;

(*b*) to give to him or such authority such information as may be necessary to enable the entry to be made; and

(*c*) to allow his finger-impressions to be recorded.

Complaints of entries in register.

8. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may complain to the District Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein or erase it therefrom, as he may think fit.

Power to take finger-impressions at any time.

9. The District Magistrate or any officer empowered by him in this behalf may at any time order the finger-impressions of any registered member of a criminal tribe to be taken.

Members of criminal tribes to report themselves or notify residence.

10. [1][(*1*)] The Local Government may, by notification in the local official Gazette, issue in respect of any criminal tribe either or both of the following directions, namely, that every registered member thereof shall, in the prescribed manner,

(*a*) report himself at fixed intervals;

(*b*) notify his place of residence and any change or intended change of residence, and any absence or intended absence from his residence.

[2][(*2*) Where a registered member of a criminal tribe in respect of which the Local Government has issued a notification under sub-section (*1*) changes his place of residence to a district other than that in which

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1 Section 10 was renumbered as 10 (1) by s. 2 of the Criminal Tribes (Amendment) Act, 1925 (33 of 1925).

2 This sub-section was added, *ibid.*

he has been registered (whether in the same province or not), or is for the time being in a district of a province other than that by the Local Government of which the said notification was issued, the provisions of this Act and of the rules made thereunder shall apply to him as if in pursuance of a direction made under section 4 he had been registered in that district; and where that district is in a province other than that by the Local Government of which *the notifications under section 3 and* sub-section *(1)* of this section were issued in respect of such criminal tribe, as if the said notifications had been issued by the Local Government of such other province

(3) Where any such registered member changes his place of residence to a district other than that in which he has been registered (whether in the same province or not), the relevant entry in the register shall be transferred to the Superintendent of Police of that district]

Restriction of movements of Criminal Tribes

11. *(1)* If the Local Government considers that it is expedient that *any criminal tribe, or any part or member of a criminal tribe* should be— **Power to restrict movements of, or settle, criminal tribes**

(*a*) restricted in its or his movements to any specified area, or

(*b*) settled in any place of residence, the Local Government may, by notification in the local official Gazette, declare that such criminal tribe, part or member, as the case may be, shall be restricted in its or his movements to the area specified in the notification, or shall be settled in the place of residence so specified, as the case may be

(2) Before making any such declaration, the Local Government shall consider the following matters, namely —

(i) the nature and the circumstances of the offences in which the members of the criminal tribe or part or the individual member as the case may be, are or is believed to have been concerned,

(ii) whether the criminal tribe, part or member follows any lawful occupation, and whether such occupation is a real occupation or merely a pretence for the purpose of facilitating the commission of crimes;

(iii) the suitability of the restriction area, or of the place of residence, as the case may be, which it is proposed to specify in the notification, and

(iv) the manner in which it is proposed that the persons to be restricted or settled shall earn their living within the restriction area or in the place of residence, and the adequacy of the arrangements which are proposed therefor.

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12. The Local Government may by a like notification vary the terms of any notification issued by it under section 11 for the purpose of specifying another restriction area or another place of residence, as the case may be, and any officer empowered in this behalf by the Local Government may, by order in writing, vary any notification made under section 11 or under this section for the purpose of specifying another restriction area, or, as the case may be, another place of residence, in the same district.

Power of Local Government to restrict or settle criminal tribe in another province.

13. Any notification made by the Local Government under section 11 or section 12 may specify, as the restriction area or as the place of residence, an area or place situated in any other province, provided that the consent of the Local Government of that province shall first have been obtained.

Verification of presence of members of tribe within prescribed area or place of residence.

14. Every registered member of a criminal tribe, whose movements have been restricted or who has been settled in a place of residence in pursuance of any notification under section 11 or section 12, shall attend at such place and at such time and before such person as may be prescribed in this behalf.

Application of Act when criminal tribe is transferred from one province or district to another.

15. (1) Where, in pursuance of any such notification, any member of a criminal tribe is restricted in his movements to an area, or is settled in a place of residence, situated in a province other than that by the Local Government of which the notification under section 3 relating to the criminal tribe was issued, all the provisions of this Act and the rules made thereunder shall apply to him as if the notification under section 3 had been issued by the Local Government of such other province.

(2) If any criminal tribe, or any part of a criminal tribe, which has been registered under section 4 in any district, or any member of such tribe or part, is restricted in its or his movements to an area, or is settled in a place of residence, situated in another district (whether in the same province or not), the register or, as the case may be, the relevant entries or entry therein shall be transferred to the Superintendent of Police of the last mentioned district, and all the provisions of this Act and the rules made thereunder shall apply as if the criminal tribe or part had been registered in that district, and the District Magistrate of that district shall have power to cancel any exemption granted under section 5.

Settlements and Schools.

Power to place tribe in settlement.

16. The Local Government may establish industrial, agricultural or reformatory settlements and may order to be placed in any such settlement any criminal tribe, or any part or member of a criminal tribe, in respect of which or of whom a notification has been issued under section 11 :

Provided that no such order shall be made unless the necessity for making it has been established to the satisfaction of the Local Government, after an inquiry held by such authority and in such manner as may be prescribed

17. (1) The Local Government may establish industrial, agricultural or reformatory schools for children and may order to be separated and removed from their parents or guardians and to be placed in any such school or schools the children of members of any criminal tribe or part of a criminal tribe, in respect of which a notification has been issued under section 11 — Power to place children in schools and to apprentice them

(2) For every school established under sub section (1), a Superintendent shall be appointed by the Local Government

(3) The provisions of sections 18 to 22 of the Reformatory Schools Act 1897, shall so far as may be, apply in the case of every school for children established under this section as if the Superintendent of such school were a Superintendent and the children placed in such school were youthful offenders within the meaning of that Act

(4) For the purposes of this section the term "children" includes all persons under the age of eighteen and above the age of six years

(5) The decision of the District Magistrate as to the age of any person for the purposes of this section shall be final

18 The Local Government or any officer authorised by it in this behalf may at any time, by general or special order, direct any person who may be in any industrial agricultural or reformatory settlement or school in the province — Power to discharge or transfer persons from settlement or school.

(a) to be discharged or

(b) to be transferred to some other settlement or school in the province

19 Any order made under section 16, section 17 or section 18 may specify as the settlement or school in which any person is to be placed or to which he is to be transferred as the case may be, any industrial, agricultural or reformatory settlement or school in any other province, provided that the consent of the Local Government of that province shall first have been obtained — Power to direct use of any settlement or school in British India for reception of persons

Rules

20 (1) The Local Government may make rules to carry out the purposes and objects of this Act — Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for or regulate—

(a) the form and contents of the register referred to in section 4;

(*b*) the manner in which the notice referred to in section 5 shall be published and the means by which the persons whom it concerns, and the village-headmen, village-watchmen and landowners and occupiers of the village in which such persons reside, and the agents of such landowners or occupiers, shall be informed of its publication;

(*c*) the addition of names to the register and the erasure of names therein, and the mode in which the notice referred to in sub-section (*2*) of section 7 shall be given;

(*d*) the manner in which persons mentioned in section 10 shall report themselves, or notify their residence or any change or intended change of residence, or any absence or intended absence;

(*e*) the nature of the restrictions to be observed by persons whose movements have been restricted by notifications under section 11 or section 12;

(*f*) the circumstances in which members of a criminal tribe shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted;

(*g*) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined, or the area to which their movements are restricted;

(*h*) the conditions to be inserted in any such pass in regard to—

(i) the places where the holder of the pass may go or reside;

(ii) the persons before whom, from time to time, he shall be bound to present himself; and

(iii) the time during which he may absent himself;

(*i*) the place and time at which, and the persons before whom, members of a criminal tribe shall attend in accordance with the provisions of section 14;

(*j*) the authority by whom and the manner in which the inquiry referred to in section 16 shall be held;

(*k*) the inspection of the residences and villages of any criminal tribe;

(*l*) the terms upon which registered members of criminal tribes may be discharged from the operation of this Act;

(*m*) the management, control and supervision of industrial, agricultural or reformatory settlements and schools;

(*n*) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour; and

(o) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or school, or otherwise offending against the rules for the time being in force, shall be subject the periodical visitation of such settlement or school and the removal from it of such persons as it shall seem expedient to remove

Penalties and Procedure

Penalties for failure to comply with terms of notice under section 5 or section 7

21. Whoever, being a member of a criminal tribe, without lawful excuse, the burden of proving which shall lie upon him,—

(a) fails to appear in compliance with a notice issued under section 5 or section 7, or

(b) intentionally omits to furnish any information required under either of those sections, or

(c) when required to furnish information under either of those sections, furnishes as true any information which he knows or has reason to believe to be false or

(d) refuses to allow his finger impressions to be taken by any person acting under an order passed under section 9,

may be arrested without warrant, and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both

Penalties for breach of rules

22 (1) Whoever, being a registered member of a criminal tribe, contravenes a rule made under clause (e) clause (g) or clause (h) of section 20 shall be punishable with imprisonment for a term which may extend,—

(a) on a first conviction, to one year,

(b) on a second conviction, to two years, and

(c) on any subsequent conviction, to three years,

or with fine which may extend to five hundred rupees or with both

(2) Whoever, being a registered member of a criminal tribe, contravenes any other rule made under section 20 shall be punishable,—

(a) on a first conviction, with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both, and

(b) on any subsequent conviction with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both

(3) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a
898 cognizable offence as defined in the Code of Criminal Procedure, 1898, may be arrested without a warrant by any officer in charge of a police-station or by any police officer not below the rank of a sub inspector.

Enhanced punishment for certain offences by members of criminal tribe after previous conviction.

23. (*1*) Whoever, being a member of any criminal tribe and having been convicted of any of the offences under the Indian Penal Code specified in Schedule I, is convicted of the same or of any other such offence shall, in the absence of special reasons to the contrary which shall be stated in the judgment of the Court, be punished,— XLV of 1860.

(*a*) on a second conviction, with imprisonment for a term of not less than seven years, and

(*b*) on a third or any subsequent conviction, with transportation for life:

Provided that not more than one of any such convictions which may have occurred before the first day of March, 1911, shall be taken into account for the purposes of this sub-section.

(*2*) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law. XLV of 1860.

Punishment for registered members of criminal tribe found under suspicious circumstances.

24. Whoever, being a registered member of any criminal tribe, is found in any place under such circumstances as to satisfy the Court,—

(*a*) that he was about to commit or aid in the commission of, theft or robbery, or

(*b*) that he was waiting for an opportunity to commit theft or robbery,

shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees.

Arrest of registered person found beyond prescribed limits.

25. (*1*) Whoever, being a registered member of a criminal tribe,—

(*a*) is found in any part of British India, beyond the area or place of residence, if any, to which his movements have been restricted or in which he has been settled without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass, or

(*b*) escapes from an industrial, agricultural or reformatory settlement or school,

may be arrested without warrant by any police-officer, village-headman or village-watchman, and may be taken before a Magistrate, who, on proof of the facts, shall order him to be removed to such area or place or to such settlement or school, as the case may be, there to be dealt with in accordance with this Act or any rules made thereunder.

(*2*) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Act:

Provided that an order from the Local Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons.

Duties of village headmen village watchmen and owners or occupiers of land to give information in certain cases

26 (1) Every village headman and village watchman in a village in which any members of a criminal tribe reside, and every owner or occupier of land on which any such persons reside, and the agent of any such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of—

(a) the failure of any such person to appear and give information when required to do so by a notice issued under section 5 or

(b) the departure of any registered member of a criminal tribe from such village or from such land, as the case may be

(2) Every village headman and village watchman in a village, and every owner or occupier of land and the agent of any such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of the arrival at such village or on such land as the case may be of any persons who may reasonably be suspected of being members of any criminal tribe

Penalty for breach of such duties

27 Any village headman village watchman, owner or occupier of land and the agent of any such owner or occupier, who fails to comply with the requirements of section 26 shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code

Power to deport certain criminal tribes to States in India

28 The Local Government if it is satisfied that adequate provision has been made by the law of any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3 and for securing the welfare of persons so restricted or settled may with the consent of the Prince or Chief of that State direct the removal to that State of any criminal tribe, or part of a criminal tribe for the time being in the province and may authorise the taking of all measures necessary to effect such removal

Provided that no person shall be so removed if the Local Government is satisfied that he is a subject of His Majesty

Supplemental

Bar of jurisdiction of Courts in questions relating to certain notifications

29 No Court shall question the validity of any notification issued under section 3 section 11 or section 12 on the ground that the provisions hereinbefore contained or any of them have not been complied with or shall entertain in any form whatever the question whether they have been complied with but every such notification shall be conclusive proof that it has been issued in accordance with law

30 [*Repeals*] *Repealed by the Repealing Act 1927 (12 of 1927)*

SCHEDULE I.

(See section 23.)

CHAPTER XII.

SECTIONS.

231. Counterfeiting coin.
232. Counterfeiting Queen's coin.
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CHAPTER XVI.

299. Culpable homicide.
307. Attempt to murder.
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310. Being a thug.
322. Voluntarily causing grievous hurt.
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326. Voluntarily causing grievous hurt by dangerous weapons or means.
327. Voluntarily causing hurt to extort property or to constrain to an illegal act.
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329. Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.
332. Voluntarily causing hurt to deter public servant from his duty.
333. Voluntarily causing grievous hurt to deter public servant from his duty.
369. Kidnapping child under ten years with intent to steal from its person.

CHAPTER XVII

SECTIONS

382 Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft
383 Extortion
385 Putting person in fear of injury in order to commit extortion
386 Extortion by putting a person in fear of death or grievous hurt.
387 Putting person in fear of death or of grievous hurt in order to commit extortion
390 Robbery
391 Dacoity
393 Attempt to commit robbery
394 Voluntarily causing hurt in committing robbery
397 Robbery or dacoity, with attempt to cause death or grievous hurt
398 Attempt to commit robbery or dacoity when armed with deadly weapon
399 Making preparation to commit dacoity
402 Assembling for purpose of committing dacoity
457 Lurking house trespass or house breaking by night in order to the commission of an offence punishable with imprisonment
458 Lurking house trespass or house breaking by night after preparation for hurt, assault or wrongful restraint
459 Grievous hurt caused whilst committing lurking house trespass or house breaking
460 All persons jointly concerned in lurking house trespass or house-breaking by night punishable where death or grievous hurt caused by one of them

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[*SCHEDULE II*] *Repealed by the Repealing Act, 1927 (12 of 1927)*

ACT No VII of 1924 [1]

[*15th March, 1924*]

An Act to amend certain enactments and to repeal certain other enactments.

Whereas it is expedient that certain amendments should be made in the enactments specified in the First Schedule,

And whereas it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary or have ceased to be in force otherwise than by express specific repeal should be expressly and specifically repealed;

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[1] For Statement of Objects and Reasons, see Gazette of India, 1924, Pt V, p 60

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Repealing and Amending Act, 1924.

Amendments of certain enactments. 2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. [*Repeal of certain enactments.*] *Repealed by the Repealing Act, 1927* (*12 of 1927*).

4. [*Savings.*] *Repealed by the Repealing Act, 1927* (*12 of 1927*).

THE FIRST SCHEDULE.

AMENDMENTS.

(*See section 2.*)

Year.	Number.	Short title.	Amendments.
1898	V	The Code of Criminal Procedure, 1898.	In sub-section (*3*) of section 541, for the word and figure "sub-section (*1*)" the word and figure "sub-section (*2*)" shall be substituted. In sub-section (*1*) of section 564, after the word and figure "section 562" the word and figure "sub-section (*1*)" shall be inserted.
1920	XL	The Aligarh Muslim University Act, 1920.	In sub-section (*4*) of section 9 of the Schedule, for the word "Courts" the word "Court" shall be substituted.
1920	XLVII	The Imperial Bank of India Act, 1920.	In clause (*p*) of Part I of Schedule I, after the words "purposes of" the word "the" shall be inserted.
1922	XI	The Indian Income-tax Act, 1922.	In sub-section (*2*) of section 63 for the words "on the" the words "to the" shall be substituted.
1923	VIII	The Workmen's Compensation Act, 1923.	In sub-section (*2*) of section 10, for the words "any one or" the words "any one of" shall be substituted. In sub-section (*5*) of section 15, for the words "monthly payment" the words "half-monthly payment" shall be substituted. In proviso (*d*) to sub-section (*1*) of section 28, for the words "or may make such order" the words "and may make such order" shall be substituted.

[THE SECOND SCHEDULE.]

[*Repeals.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

ACT No. IX OF 1924.[1]

[19th March, 1924.]

An Act further to amend the Indian Tariff Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1924.

(2) It shall come into force on the first day of April, 1924.

Amendment of preamble to Act VIII of 1894. 2. In the preamble to the Indian Tariff Act, 1894 (hereinafter referred to as the said Act), for the words "crossing the frontier of certain foreign European settlements in India and of the territories of certain Native Chiefs" the words "imported into or exported from British India by land" shall be substituted.

Substitution of new section for section 5, Act VIII of 1894. 3. For section 5 of the said Act the following section shall be substituted, namely:—

Duties on imports and exports by land. "5. Where a duty of customs at any rate prescribed by or under this Act or any other law for the time being in force is leviable on any article when imported into, or on any article when exported from, a port in British India, the Governor General in Council may, by notification in the Gazette of India, direct that a duty of customs at the like rate shall be leviable on any such article when imported or exported, as the case may be, by land from or to any territory outside British India, which he may, by a like notification, declare to be foreign territory for the purposes of this section."

Amendment of section 8, Act VIII of 1894. 4. In section 8 of the said Act, the words, figure and brackets "sub-section (1), clause (b)" shall be omitted.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1924, Pt. V, p. 21; and for Report of Select Committee, see *ib.*, *Pt.* V, p. 55.

ACT No. X OF 1924.[1]

[26th March, 1924.]

An Act further to amend the Indian Coinage Act, 1906, for certain purposes.

WHEREAS it is expedient further to amend the Indian Coinage Act, 1906, for certain purposes hereinafter appearing; It is hereby enacted as follows:— III of 1906.

Short title. 1. This Act may be called the Indian Coinage (Amendment) Act, 1924.

Amendment of section 15, Act III of 1906. 2. In clause (b) of sub-section (1) of section 15 of the Indian Coinage Act, 1906 (hereinafter referred to as the said Act), for the words "notwithstanding anything contained in this Act or in any Act hereby repealed, but subject" the following shall be substituted, namely:— III of 1906.

"subject only to the provisions of section 15A and".

Insertion of new section 15A in Act III of 1906. 3. After section 15 of the said Act the following section shall be inserted, namely:—

Power to call in coin. "15A. Notwithstanding anything contained in section 12, section 13, section 14 or section 15, the Governor General in Council may, by notification in the Gazette of India, call in, with effect from such date as may be specified in the notification, any coin, of whatever date or denomination, referred to in any of those sections, other than the rupee and half-rupee referred to in sub-section (1) of section 12, and on and from the date so specified such coin shall cease to be a legal tender save at a Government currency office:

Provided that such coin shall continue to be a legal tender also at Government treasuries until the expiry of such further period, not being less than twelve months, as the Governor General in Council may fix by the notification."

ACT No. XI OF 1924.[2]

[28th March, 1924.]

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing; It is hereby enacted as follows:— XI of 1922.

Short title and commencement. 1. (1) This Act may be called the Indian Income-tax (Amendment) Act, 1924.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 15, and for Report of Select Committee, *see ibid*, p. 41.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 18, and for Report of Select Committee, *see ibid*, p. 69.

(2) Sections 4, 5, 6 and 10 shall not come into force until the first day of April, 1924

2 In clause (12) of section 2 of the Indian Income tax Act, 1922 (hereinafter referred to as the said Act), after the words " any other public body or " the word " any " shall be inserted — Amendment of section 2, Act XI of 1922

3. In section 3 of the said Act, for the words " individual, company, firm and Hindu undivided family " the words " individual, Hindu undivided family, company, firm and other association of individuals " shall be substituted — Amendment of section 3, Act XI of 1922.

4 In clause (iv) of sub section (3) of section 4 of the said Act, the words " or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912, is or, but for an exemption under that Act, would be, applicable " shall be omitted — Amendment of section 4, Act XI of 1922.

5. In sub section (1) of section 15 of the said Act, the words " or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act " shall be omitted — Amendment of section 15 Act XI of 1922

6 In section 25 of the said Act,— — Amendment of section 25 Act XI of 1922

(a) in sub section (1) for the words and figures "commenced after the 31st day of March, 1922 " the words and figures " on which income tax was not at any time charged under the provisions of the Indian Income tax Act, 1918 " shall be substituted, and

(b) in sub section (3) the words " which was in existence at the commencement of this Act, and " shall be omitted

7 In section 55 of the said Act for the words " individual, unregistered firm Hindu undivided family or company " the words " individual Hindu undivided family, company, unregistered firm or other association of individuals not being a registered firm," shall be substituted — Amendment of section 55 Act XI of 1922

8 In section 56 of the said Act, for the words " individual, un registered firm, Hindu undivided family or company " the words " individual, Hindu undivided family, company, unregistered firm or other association of individuals " shall be substituted — Amendment of section 56 Act XI of 1922

9 To sub section (2) of section 63 of the said Act, after the words " member of the family " the words " and, in the case of any other association of individuals, be addressed to the principal officer thereof " shall be added — Amendment of section 63 Act XI of 1922

10 In sub section (3) of section 66 of the said Act, after the words " the assessee may " the words " within six months from the date on which he is served with notice of the refusal " shall be inserted — Amendment of section 66 Act XI of 1922

Retrospective effect.

11. The amendments made in the said Act by sections 3, 7 and 8 shall have effect as if they had been made on the first day of April, 1923, and income-tax and super-tax shall be deemed to have been chargeable for the year commencing on that date and to be chargeable for the year commencing on the first day of April, 1924, at the rate or rates applicable for those years to the total income of an individual, in respect of the income, profits and gains and of the total income respectively, of every association of individuals for which no rate of tax has been otherwise laid down by law.

ACT No. XIII of 1924.[1]

[*13th June, 1924.*]

An Act to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments.

WHEREAS it is expedient to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments; It is hereby enacted as follows:— II of 1899.

Short title and extent.

1. (*1*) This Act may be called the Indian (Specified Instruments) Stamp Act, 1924.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Definitions.

2. In this Act,—

(*a*) "instrument to which this Act applies" means—

(i) any instrument mentioned in Article No. 19, No. 36, No. 37 or No. 52 in Schedule I to the Indian Stamp Act, 1899, or II of 1899.

(ii) any promissory note payable on demand for an amount exceeding two hundred and fifty rupees,

which has been executed in British India at any time after the 30th day of September, 1923, and before the 1st day of April, 1924, and which has been stamped in such a manner that it would have been duly stamped for the purposes of the Indian Stamp Act, 1899, if the Indian Stamp (Amendment) Act, 1923, had not been passed; and II of 1899. XLIII of 1923.

(*b*) "section" means a section of the Indian Stamp Act, 1899. II of 1899.

Application of certain provisions of Act II of 1899.

3. (*1*) No exception or restriction in respect of promissory notes contained in clause (*a*) of the proviso to section 35 or in sub-section (*1*) of section 40 or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, 1924, p. 264.

(2) For the purpose of the application of clause (*a*) of the proviso to section 35 and of sub section (*1*) of section 40 to instruments to which this Act applies, nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument.

(3) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62

(4) Where, before the commencement of this Act, any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub section (*1*) of section 32, or by way of penalty under the proviso to section 35 or under sub-section (*1*) of section 40, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof

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ACT No XV OF 1924 [1]

[*18th September, 1924*]

An Act further to amend the Indian Motor Vehicles Act, 1914, for certain purposes.

WHEREAS it is expedient further to amend the Indian Motor Vehicles Act, 1914, for purposes hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Indian Motor Vehicles (Amendment) Act, 1924 Short title

2 In clause (*a*) of sub section (*2*) of section 11 of the Indian Motor Vehicles Act, 1914, after the words " area in which " the words " and the duration for which " shall be inserted Amendment of section 11, Act VIII of 1914

ACT No XVI OF 1924 [2]

[*24th September, 1924*]

An Act further to amend the Indian Post Office Act, 1898, for certain purposes

WHEREAS it is expedient further to amend the Indian Post Office Act, 1898 for certain purposes hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Indian Post Office (Amendment) Act 1924 Short title

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[1] For Statement of Objects and Reasons *see* Gazette of India 1924 Pt V p 125
[2] For Statement of Objects and Reasons *see* Gazette of India 1924 Pt V p 116

Amendment of section 17, Act VI of 1898.

2. Section 17 of the Indian Post Office Act, 1898 (hereinafter referred to as the said Act), shall be re-numbered as sub-section (*1*) of section 17, and to that section as re-numbered the following sub-section shall be added, namely :— VI of 1898.

"(*2*) Where the Governor General in Council has directed that prepayment of postage or other sums chargeable under this Act in respect of postal articles may be made by prepaying the value denoted by the impressions of stamping machines issued under his authority, the impression of any such machine shall likewise be deemed to be a stamp issued by Government for the purpose of revenue, within the meaning of the Indian Penal Code." XLV of 1860.

Amendment of section 27, Act VI of 1898.

3. To the *Explanation* to section 27 of the said Act the following shall be added, namely :—

" and the impression of any stamping machine provided or authorised for the like purpose by or under the authority of the Government of such part, State or country ".

ACT No. XVII OF 1924.[1]

[*24th September, 1924.*]

An Act to amend the Imperial Bank of India Act, 1920.

WHEREAS it is expedient to amend the Imperial Bank of India Act, 1920, for certain purposes hereinafter appearing; It is hereby enacted as follows :— XLVII of 1920.

Short title.

1. This Act may be called the Imperial Bank of India (Amendment) Act, 1924.

Insertion of new section 13A in Act XLVII of 1920.

2. After section 13 of the Imperial Bank of India Act, 1920, the following section shall be inserted, namely :— XLVII of 1920.

Power of Bank to grant loans to certain other Banks.

" 13A. Notwithstanding anything contained in Schedule I, the Bank may, either alone or conjointly with other persons, for the purpose of averting the winding up of any company as defined in section 13 having a share capital which is expressed in rupees in its memorandum of association or of any society registered under the Co-operative Societies Act, 1912, or, where any such company or society is being wound up, of facilitating the winding up, advance or lend money to, or open a cash-credit in favour of, such company or society or the liquidators thereof, as the case may be, for any period upon the security of all or any of the assets whatsoever of such company or society." II of 1912.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1924, Pt. V, p. 91, and for Report of Select Committee, *see ibid*, p. 127.

ACT No XVIII OF 1924 [1]

[*24th September, 1924*]

An Act further to amend the Indian Penal Code and of the Code of Criminal Procedure, 1898, for the purpose of affording greater protection to persons under the age of eighteen years.

WHEREAS it is expedient further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for the purpose of affording greater protection to persons under the age of eighteen years, It is hereby enacted as follows —

1. (*1*) This Act may be called the Indian Criminal Law Amendment Act, 1924 *Short title and commencement*

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint

2 In sections 372 and 373 of the Indian Penal Code, for the words "minor under the age of eighteen years with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be" the words "person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be" shall be substituted *Amendment of sections 372 and 373, Act XLV of 1860*

3 To section 372 of the same Code the following *Explanations* shall be added, namely — *Further amendment of section 372 Act XLV of 1860.*

"*Explanation I* —When a female under the age of eighteen years is sold, let for hire or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution

Explanation II —For the purposes of this section "illicit intercourse" means sexual intercourse between persons not united

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[1] For Statement of Objects and Reasons see Gazette of India 1924, Pt V, p 86, and for Report of Select Committee see ibid p 129

[2] This Act was brought into force on the 1st January 1925, see Gen R & O, Vol V, p 615

by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a *quasi*-marital relation."

Further amendment of section 373, Act XLV of 1860.

4. To section 373 of the same Code the following *Explanations* shall be added, namely :—

"*Explanation I.*—Any prostitute, or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation II.—'Illicit intercourse' has the same meaning as in section 372".

Amendment of section 552, Act V of 1898.

5. In section 552 of the Code of Criminal Procedure, 1898, for the word "fourteen" the word "sixteen" shall be substituted. V of 1898.

ACT No. XIX OF 1924.[1]

[*30th September, 1924.*]

An Act to consolidate, amend and extend the law relating to the levy of duties of customs on articles imported or exported by land from or to territory outside India.

WHEREAS it is expedient to consolidate, amend and extend the law relating to the levy of duties of customs on articles imported or exported by land from or to territory outside India; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Land Customs Act, 1924.

(2) It extends to the whole of British India (except Aden).

(3) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) any reference to the passing or import or export of goods "by land" shall be deemed to include the passing or import or export of goods by any inland waterway constituting a foreign frontier or part of a foreign frontier;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 112, and for Report of Select Committee, *see ibid*, p. 135.

[2] This Act was brought into force on the 13th December, 1924, *see* Gen. R. & O., Vol. V, p. 616.

(b) "Chief Customs authority" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, and includes, in relation to any power or duty[1] which the Governor General in Council may, by notification in the Gazette of India, transfer from the Central Board of Revenue to a Local Government, the Local Government or such officer as the Local Government may appoint in that behalf,

(c) "Collector of Land Customs" means a Collector of Land Customs appointed under section 3,

(d) "dutiable goods" means any article on which a duty of land customs is leviable by virtue of a notification issued under section 5 of the Indian Tariff Act, 1894,

(e) "foreign frontier" means the frontier separating any foreign territory from any part of British India,

(f) "foreign territory" means any territory (other than territory forming part of a State in India) which has been declared under section 5 of the Indian Tariff Act, 1894, to be foreign territory for the purposes of that Act,

(g) "land customs area" means any area adjoining a foreign frontier for which a Collector of Land Customs has been appointed under section 3, and

(h) "official Gazette" means, in relation to a notification issued by a Local Government, the local official Gazette, and, in relation to a notification issued by the Central Board of Revenue, the Gazette of India

3 (1) The Governor General in Council may, by notification in the Gazette of India, appoint,[2] for any area adjoining a foreign frontier and specified in the notification, a person to be the Collector of Land Customs and such other persons as he thinks fit to be Land Customs Officers

Appointment of Land Customs Officers

(2) The Governor General in Council may delegate[3] to any Local Government or to the Chief Customs authority any power conferred upon him by sub section (1), and the Local Government or the Chief Customs-authority may delegate[3] to any Collector of Land Customs any power to appoint Land Customs Officers which has been so delegated to it

4. The Chief Customs-authority may, by notification[4] in the official Gazette,—

Establishment of land customs stations and determination of routes.

(a) establish land customs stations for the levy of land customs in any land customs area, and

[1] For the transference of such powers and duties to the local Government of Burma, see Gen R & O, Vol V, p 616

[2] For Notification making such appointments, see Gen R & O, Vol V, pp 616-617

[3] For Notifications making such delegations, see ibid, p 617

[4] For such Notifications, see ibid, pp 618 620

(*b*) prescribe the routes by which alone goods, or any class of goods specified in the notification, may pass by land out of or into any foreign territory, or to or from any land customs station from or to any foreign frontier.

Permit for goods passing across frontier.

5. (*1*) Every person desiring to pass any goods, whether dutiable goods or not, by land out of or into any foreign territory shall apply in writing, in such form[1] as the Chief Customs-authority may by notification in the official Gazette prescribe, for a permit for the passage thereof, to the Land Customs Officer in charge of a land customs station established in a land customs area adjoining the foreign frontier across which the goods are to pass.

(*2*) When the duty on such goods has been paid or the goods have been found by the Land Customs Officer to be free of duty, the Land Customs Officer shall grant a permit certifying that duty has been paid on such goods or that the goods are free of duty, as the case may be.

(*3*) Any Land Customs Officer, duly empowered by the Chief Customs-authority in this behalf, may require any person in charge of any goods which such Officer has reason to believe to have been imported, or to be about to be exported, by land from, or to, any foreign territory to produce the permit granted for such goods; and any such goods which are dutiable and which are unaccompanied by a permit or do not correspond with the specification contained in the permit produced, shall be detained and shall be liable to confiscation :

Provided that nothing in this sub-section shall apply to any imported goods passing from a foreign frontier to a land customs station by a route prescribed in that behalf.

(*4*) The Chief Customs-authority may, by notification[2] in the official Gazette, direct that the provisions of this section, or any specified provisions thereof, shall not, in any land customs area specified in the notification, apply in respect of goods of any class or value so specified.

Personal baggage.

6. A Land Customs Officer empowered in this behalf by the Chief Customs-authority shall pass free of duty any goods imported or exported by land by any passenger, if he is satisfied that the goods are the passenger's personal baggage in actual use.

See attached Act XIX of 1931 sec. 2

Penalties.

7. Any person who—

(*a*) in any case in which the permit referred to in section 5 is required, passes or attempts to pass any goods by land out of or into any foreign territory through any land customs station without such permit, or

(*b*) conveys or attempts to convey to or from any foreign territory or to or from any land customs station any goods by a route

[1] For Notification prescribing such form, *see* Gen. R. & O., Vol. V, p. 620.
[2] For such a Notification, *see* Gen. R. & O., Vol. V, p. 621.

ACT No. XIX of 1931.

(Passed by the Indian Legislature.)

(Received the assent of the Governor General on the [illegible], 1931.)

An Act to amend the Land Customs Act, 1924, for a certain purpose.

WHEREAS it is expedient further to amend the Land Customs Act, 1924, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Land Customs (Amendment) Act, 1931.

2. [illegible]

[illegible]

(3) Such magistrate shall thereupon take and try the case [illegible]

ACT No. XIX OF 1931.

(PASSED BY THE INDIAN LEGISLATURE.)

(*Received the assent of the Governor General on the 1st October, 1931.*)

An Act to amend the Land Customs Act, 1924, for a certain purpose.

XIX of 1924. WHEREAS it is expedient to amend the Land Customs Act, 1924, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Land Customs (Amendment) Act, 1931. Short title.

XIX of 1924. 2. Section 7 of the Land Customs Act, 1924, shall be re-numbered as sub-section (*1*) of section 7, and to the said section so re-numbered the following sub-sections shall be added, namely:— Amendment of section 7, Act XIX of 1924.

"(*2*) Where any dutiable goods, or any goods in respect of which a notification under section 19 of the Sea Customs Act, 1878, prohibiting the bringing or taking by land of such goods into British India or any specified part thereof, has been issued, are passed by land out of any foreign territory and the Land Customs Officer is of opinion that an offence under sub-section (*1*) has been committed in respect of such goods and that the penalty provided in that sub-section is inadequate, he may make a complaint to a magistrate having jurisdiction. VIII of 1878.

(*3*) Such magistrate shall thereupon inquire into and try the charge brought against the accused person and, upon conviction, may sentence him to imprisonment of either description for a term which may extend to six months, or to fine not exceeding one thousand rupees, or to both, and may confiscate the goods in respect of which the offence has been committed."

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other than the route, if any, prescribed for such passage under this Act, or

(c) aids in so passing or conveying any goods, or, knowing that any goods have been so passed or conveyed, keeps or conceals such goods or permits or procures them to be kept or concealed,

shall be liable to a penalty not exceeding, where the goods are not dutiable, fifty or, where the goods or any of them are dutiable, one thousand rupees, and any dutiable goods in respect of which the offence has been committed shall be liable to confiscation

Goods not to be passed on certain days or at certain times

8. No goods other than personal baggage or goods belonging to Government or mails shall be delivered or passed at any land customs station, except with the special permission of the Land Customs Officer in charge thereof,—

(a) on any public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or on any day on which the passage and delivery of goods at such land customs station has been prohibited by the Chief Customs authority by notification in the official Gazette, or

(b) on any day except between such hours as the Chief Customs authority may, by a like notification,[1] appoint

Application of Act VIII of 1878.

9. (1) The provisions of the Sea Customs Act, 1878, which are specified in the Schedule, together with all notifications, orders, rules or forms issued, made or prescribed thereunder, shall, so far as they are applicable, apply for the purpose of the levy of duties of land customs under this Act in like manner as they apply for the purpose of the levy of duties of customs on goods imported or exported by sea

(2) For the purpose of such application the said provisions, notifications, orders, rules and forms may be construed with such alterations as may be necessary or proper to adapt them for the said purpose, but not so as otherwise to affect the substance thereof, and in particular—

(a) references to bills of entry and to shipping bills shall be deemed to be references, respectively, to applications for permits to import and applications for permits to export such as are referred to in section 5,

(b) references to a Chief Customs Officer shall be deemed to be references to a Collector of Land Customs,

(c) references to a Customs Collector shall be deemed to be references to a Land Customs Officer for the time being in charge of a land customs station or duly authorised to perform all, or any special, duties of an officer so in charge

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[1] For such Notifications *see* Gen. P & O, Vol V, pp. 622 623

(*d*) references to a custom-house shall be deemed to be references to a land customs station,

(*e*) references to a customs-port shall be deemed to be references to a land customs area,

(*f*) references to a foreign port shall be deemed to be references to foreign territory,

(*g*) references to goods brought by sea to, and to goods shipped or brought for shipment at, a customs-port shall be deemed to be references respectively to goods brought across a foreign frontier into a land customs area and to goods brought to a land customs station for export,

(*h*) references to Officers of Customs shall be deemed to be references to Collectors of Land Customs or Land Customs Officers appointed under this Act,

(*i*) references to persons on board of any vessel or boat in any port or to persons landing shall be deemed to be references to persons who have entered a land customs area from foreign territory, and

(*j*) references to "this Act" shall be deemed to be references to the Sea Customs Act, 1878, as applied for the purposes of this Act, or to this Act, as the case may require. VIII of 1878.

Operation of Acts VI of 1844 and XXIX of 1857.

10. Notwithstanding anything contained in section 8 of the Indian Tariff Act, 1894, nothing in the Madras Inland Customs Act, 1844, or in the Bombay Land-Customs Act, 1857, shall apply in respect of the levy or collection of duties of customs on articles imported or exported by land from or to any foreign territory as defined in this Act. VIII of 1894. VI of 1844. XXIX of 1857.

THE SCHEDULE.

(SEE SECTION 9.)

Provisions of the Sea Customs Act, 1878, which are made applicable for the purpose of the levy of duties of land customs.

Sections 4, 8 to 10, 21, 23, 25, 26, 29 to 36, 37 (except the proviso), 38 to 40, section 167, Nos. 1, 8, 9, 37 to 40 and 72 to 80, sections 169 to 176, 178 to 181, 182 to 184, 186 to 197 and 200 to 204.

ACT No I OF 1925 [1]

[*9th February, 1925*]

An Act to amend the Indian Merchant Shipping Act, 1923, for a certain purpose.

WHEREAS it is expedient to amend the Indian Merchant Shipping Act 1923 for a certain purpose, It is hereby enacted as follows —

Short title

1. This Act may be called the Indian Merchant Shipping (Amendment) Act, 1925

Amendment of section 245 Act XXI of 1923

2 In sub section (2) of section 215 of the Indian Merchant Shipping Act, 1923, after clause (*b*) the following clause shall be inserted, namely —

" (*c*) the charging of fees for the grant of the certificate referred to in sub section (4) of section 243, the amount of such fees and the manner in which they shall be recoverable "

ACT No II OF 1925 [2]

[*11th February, 1925*]

An Act further to amend the Indian Paper Currency Act, 1923.

923 WHEREAS it is expedient further to amend the Indian Paper Currency Act, 1923, for the purpose hereinafter appearing, It is hereby enacted as follows —

Short title

1. This Act may be called the Indian Paper Currency (Amendment) Act, 1925

Amendment of section 19, Act X of 1923

923 2 In sub section (4) of section 19 of the Indian Paper Currency Act, 1923, for the words " eight hundred and fifty " the words " one thousand " shall be substituted, and to the same sub-section the following proviso shall be added, namely —

" Provided that the value of created securities included in the said securities at the price at which they were purchased shall not exceed five hundred millions of rupees "

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[1] For Statement of Objects and Reasons, see Gazette of India, 1925, Pt V, p 3.
[2] For Statement of Objects and Reasons, see Gazette of India, 1925, Pt V, p 2

ACT No. IV of 1925.[1]

[*26th February, 1925.*]

An Act to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions.

WHEREAS it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Soldiers (Litigation) Act, 1925.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the first day of April, 1925.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Court" means a Civil or Revenue Court;

(*b*) "Indian soldier" means any person subject to the Indian Army Act, 1911; **VIII of 1911.**

(*c*) "prescribed" means prescribed by rules made under this Act; and

(*d*) "proceeding" includes any suit, appeal or application.

Circumstances in which an Indian soldier shall be deemed to be serving under special conditions.

3. For the purposes of this Act, an Indian soldier shall be deemed to be or, as the case may be, to have been serving—

(*a*) under special conditions—when he is or has been serving under war conditions, or overseas, or at any place in Persia, Tibet, Afghanistan, Kashmir, Nepal or China, or with any unit the headquarters of which are situated at any place in Chitral, Waziristan, the North-West Frontier Province or British Baluchistan which is more than fifty miles distant by road from the nearest railway station;

(*b*) under war conditions—when he is or has been, at any time during the continuance of any hostilities declared by the Governor General in Council by notification in the Gazette of India to constitute a state of war for the purposes of this Act or at any time during a period of six months thereafter,—

(i) serving out of India,

(ii) under orders to proceed on field service,

(iii) serving with any unit which is for the time being mobilised, or

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 119, and for Report of Select Committee, *see ibid*, 1925, Pt. V, p. 11.

(iv) serving under conditions which, in the opinion of the prescribed authority, preclude him from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, or when he is or has been at any other time serving under conditions service under which has been declared by the Governor General in Council by notification[1] in the Gazette of India to be service under war conditions and

(c) overseas—in relation to any place in British India, other than Aden, when he is or has been serving in Aden or in any place outside India (other than Ceylon) the journey between which and British India is ordinarily undertaken wholly or in part by sea, and, in relation to Aden, when he is or has been serving in any place other than Aden

Particulars to be furnished in plaints applications or appeals to Court.

4 If any person presenting any plaint application or appeal to any Court has reason to believe that any adverse party is an Indian soldier who is serving under special conditions, he shall state the fact in his plaint, application or appeal

Power of Collector to intervene in case of unrepresented Indian soldier

5. If any Collector has reason to believe that any Indian soldier, who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Collector may certify the facts in the prescribed manner to the Court

Notice to be given in case of unrepresented Indian soldier

6 If a Collector has certified under section 5, or if the Court has reason to believe, that an Indian soldier, who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

(a) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre emption, or

(b) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature

Postponement of proceedings

7. If on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions and that a postponement of

[1] For such Notifications *see* Gen R & O, Vol V, p 624

the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall thereupon postpone the proceeding in respect of the soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

Court may proceed when no certificate received.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of the notice that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Postponement of proceedings against Indian soldier on leave.

9. When any document purporting to be signed by the Commanding Officer of an Indian soldier who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

(*a*) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under special conditions, or

(*b*) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions,

the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to section 6, and shall, in any other case, be postponed in the manner provided in section 7.

Power to set aside decrees and orders passed against an Indian soldier serving under war or special conditions.

10. (*1*) In any proceeding before a Court in which a decree or order has been passed against any Indian soldier whilst he was serving under war conditions or at any time after the 1st day of April, 1925, whilst he was serving under any special conditions, the soldier may apply to the Court which passed the decree or order for an order to set aside the same, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the soldier, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly.

(*2*) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order, during no part of which the soldier was serving under special conditions:

Provided that the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to such applications. IX of 190[8]

(*3*) When the decree or order in respect of which an application under sub-section (*1*) is made is of such a nature that it cannot be set

aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit appeal or application, as the case may be

Modification of law of limitation where Indian soldier serving under war or special conditions is a party

11 In computing the period of limitation prescribed by the Indian
8 Limitation Act, 1908, or any other law for the time being in force for any suit, appeal or application to any Court any party to which is or has been an Indian soldier, the time during which the soldier has been serving under war conditions since the 4th day of August 1914, or under any special conditions since the 1st day of April 1925, shall be excluded

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre emption

Power of Court to refer question as to whether service was under war or other special conditions

12 If any Court is in doubt whether, for the purposes of section 10 or section 11, any Indian soldier is or was at any particular time serving under war or other special conditions it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point

Rule making power

13 The Local Government, after consulting the High Court, may, by notification in the local official Gazette make rules to provide for all or any of the following matters, namely —

(a) the manner and form in which any notice or certificate under this Act shall be given

(b) the period for which proceedings or any class of proceedings shall be postponed under section 7

(c) the persons[1] who shall be the prescribed authorities for the purposes of this Act,

(d) any other matter which is to be or may be prescribed, and

(e) generally, any matters incidental to the purposes of this Act

Power to apply the provisions of the Act to other persons in the service of the Crown

14 The Governor General in Council may by notification[2] in the Gazette of India direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers

15 [*Repeal of Acts IX of 1918 and XII of 1924*] *Repealed by the Repealing Act 1927 (12 of 1927)*

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1 ... bed authorities under this clause in Baluchistan se ... p 244

2 ... all the provisions of this Act shall apply to the Ind ... Singapore Brigade Royal Artillery see Gen R and O, Vol V, p 624

ACT No. V OF 1925.[1]

[1st March, 1925.]

An Act further to amend the Indian Income-tax Act, 1922.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purpose hereinafter appearing; It is hereby enacted as follows:— XI of 1922.

Short title.

1. This Act may be called the Indian Income-tax (Amendment) Act, 1925.

Amendment of section 56, Act XI of 1922.

2. To section 56 of the Indian Income-tax Act, 1922, the following proviso shall be added, namely:— XI of 1922.

"Provided that, in computing the total income of a member of a *registered firm, where any change occurs in the constitution* of the firm, the profits or gains of the firm during the previous year shall be deemed to have been received in that year by the members of the firm as constituted at the time of the making of the assessment to super-tax in proportion to their shares in the firm at that time."

ACT No. VI OF 1925.[2]

[3rd March, 1925.]

An Act to determine the salary of the President of the Legislative Assembly.

WHEREAS it is provided by sub-section (5) of section 63C of the Government of India Act that an elected President of the Legislative Assembly shall receive such salary as may be determined by Act of the Indian Legislature; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Legislative Assembly (President's Salary) Act, 1925.

Salary of elected President.

2. (1) There shall be paid to the elected President of the Legislative Assembly a salary calculated at the rate of four thousand rupees *per mensem*.

(2) The elected President of the Legislative Assembly shall not during his tenure of that office practise any profession or engage in any trade or undertake for remuneration any employment other than his duties as President of the Legislative Assembly.

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 15.
The Act has been declared in force in the Angul District under section 5 of the Angul Laws Regulation, 1913 (3 of 1913), *see* Notification No. 2361-P. R., dated 3rd August, 1927, B. and O. Gazette, 1927, Pt. II, p. 942.

2 For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 14.

ACT No. VII of 1925[1]

[*10th March, 1925.*]

An Act to amend the Cantonments Act, 1924.

WHEREAS it is expedient to amend the Cantonments Act, 1924, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Cantonments (Amendment) Act, 1925.

Amendment of section 2, Act II of 1924.

2. In section 2 of the Cantonments Act, 1924 (hereinafter referred to as the said Act),—

(*a*) in clause (xii) for the words "Military Works officer" the words "officer of the Military Engineer Services" shall be substituted; and

(*b*) in clauses (xix) and (xxxvi) the words "with the previous sanction of the Governor General in Council" shall be omitted.

Amendment of section 14, Act II of 1924.

3. In section 14 of the said Act,—

(*a*) in clause (*c*) of sub-section (*1*) after the word "nominated" the words "by name" shall be inserted;

(*b*) in clause (*f*) of the said sub-section for the word "appointed" the word "constituted" shall be substituted; and

(*c*) in sub-section (*2*) for the words "nomination or appointment" the words "or nomination" shall be substituted.

Amendment of section 28, Act II of 1924.

4. In section 28 of the said Act,—

(*a*) in sub-section (*1*) after the word "being" the words "a stipendiary Magistrate or" shall be inserted; and

(*b*) in clause (*c*) of sub-section (*2*) the words "stipendiary Magistrate or" shall be omitted.

Insertion of new section 36A in Act II of 1924.

5. After section 36 of the said Act the following section shall be inserted, namely:—

Cantonment servant to be deemed a public servant.

"36A. Every officer or servant, permanent or temporary, of a Cantonment Authority shall be deemed to be a public servant within the meaning of the Indian Penal Code, and in the definition of 'Legal remuneration' in section 161 of that Code the word 'Government' shall, for the purposes of this section, be deemed to include a Cantonment Authority."

Insertion of new section 116A in Act II of 1924.

6. After section 116 of the said Act the following section shall be inserted, namely:—

Power to manage property.

"116A. A Cantonment Authority may, subject to any conditions imposed by the Governor General in Council, manage any property entrusted to its management by the Governor General in Council on such terms as to the sharing of rents and profits accruing from such property as may be determined by rule made under section 280."

[1] For Statement of Objects and Reasons, see Gazette of India, 1925, Pt. V, p. 50.

Amendment of section 126, Act II of 1924.

7. In section 126 of the said Act,—

(*a*) after the word "Authority" where it occurs for the first time, the words "in a ruinous state or" shall be inserted;

(*b*) after the word "enclosure" the words "a nuisance or" shall be inserted; and

(*c*) after the words "owner thereof" the words "either to remove the same or" shall be inserted.

Amendment of section 176, Act II of 1924.

8. In sub-section (2) of section 176 of the said Act, for the words "Commanding Officer of that cantonment" the words "Officer Commanding the station" shall be substituted.

Amendment of sections 218 and 233, Act II of 1924.

9. In sections 218 and 233 of the said Act, for the words "Military Works," wherever they occur, the words "Military Engineer" shall be substituted.

Amendment of sections 235 and 237, Act II of 1924.

10. In sections 235 and 237 of the said Act, for the words "Commanding Officer of a cantonment" the words "Officer Commanding the station" shall be substituted.

Amendment of section 272, Act II of 1924.

11. In section 272 of the said Act, for the words "Commanding Officer of a cantonment" the words "Officer Commanding a station" shall be substituted.

Amendment of section 280, Act II of 1924.

12. After clause (*b*) of sub-section (2) of section 280 of the said Act, the following clause shall be inserted, namely:—

"(*bb*) the allotment to a Cantonment Authority of a share of the rents and profits accruing from property entrusted to its management under the provisions of section 116A;".

Amendment of Schedule V, Act II of 1924.

13. In Schedule V to the said Act, in the entry in the second column against section 176 for the words "Commanding Officer of cantonment" the words "Officer Commanding the station" shall be substituted.

Substitution of title "Officer Commanding the station."

14. In the said Act for the words "Commanding Officer of the cantonment", wherever they occur, the words "Officer Commanding the station" shall be substituted.

ACT No. VIII OF 1925.[1]

[*10th March, 1925.*]

An Act to give effect to certain articles of the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications.

WHEREAS it is expedient to amend certain provisions of the Indian Penal Code and of the Code of Criminal Procedure, 1898, for the pur- XLV of 1860. V of 1898.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 126, and for Report of Select Committee, *see* Gazette of India, 1925, Pt. V, p. 39.

pose of giving effect to the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications signed at Geneva on behalf of the Governor General in Council on the 12th day of September, 1923, It is hereby enacted as follows —

1 This Act may be called the Obscene Publications Act, 1925 Short title

2 For sections 292 and 293 of the Indian Penal Code the following sections shall be substituted namely — Substitution of new sections for sections 292 and 293 Act XLV of 1860

'292 Whoever—

Sale etc, of obscene books etc

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale hire distribution, public exhibition or circulation makes produces or has in his possession any obscene book pamphlet paper drawing, painting, representation or figure or any other obscene object whatsoever, or

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid or knowing or having reason to believe that such object will be sold let to hire distributed or publicly exhibited or in any manner put into circulation or

(c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are for any of the purposes aforesaid made produced, purchased kept imported exported conveyed publicly exhibited or in any manner put into circulation or

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section or that any such obscene object can be procured from or through any person, or

(e) offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine or with both

Exception —This section does not extend to any book pamphlet writing, drawing or painting kept or used *bonâ fide* for religious purposes or any representation sculptured, engraved painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose

293 Whoever sells, lets to hire distributes exhibits or circulates to any person under the age of twenty years any such obscene object as Sale etc of obscene

objects to young person.

is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

Amendment of section 98, Act V of 1898.

3. (*1*) In sub-section (*1*) of section 98 of the Code of Criminal Procedure, 1898,— V of 1898.

(i) after the words " kept or deposited in any place " the following paragraph shall be inserted, namely :—

" or, if a District Magistrate, Sub-Divisional Magistrate or a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Indian Penal Code or that any such obscene objects are kept or deposited in any place ;" XLV of 1860.

(ii) in clause (*c*), after the word " materials " the words " or of any such obscene objects " shall be inserted ;

(iii) in clause (*d*), after the word " materials " the words " or such obscene objects " shall be inserted ; and

(iv) in clause (*e*), after the words " or materials," where they first occur, the words " or such obscene objects " shall be inserted, and after the words " or for forging " the following words shall be added, namely :—

" or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported ".

(*2*) In the Second Schedule to the same Code,—

(i) for the entries in column 8 against sections 292 and 293 the words " Presidency Magistrate, or Magistrate of the first class," shall be substituted ;

(ii) for the entry in column 2 against section 293 the words " Sale, etc., of obscene objects to young persons " shall be substituted ; and

(iii) for the entry in column 7 against the same section the words " Imprisonment of either description for 6 months, or fine, or both " shall be substituted.

(3) In the Fifth Schedule to the same Code, in Form IX, after the words " *or* seals, *or* coins " the words " *or* obscene objects " shall be inserted.

ACT No IX OF 1925 [1]

[*14th March, 1925*]

An Act further to amend the Indian Ports Act, 1908.

WHEREAS it is expedient further to amend the Indian Ports Act, 1908, for the purpose hereinafter appearing, It is hereby enacted as follows:— 1908.

1. This Act may be called the Indian Ports (Amendment) Act, 1925 Short title.

2. In sub-section (*1*) of section 6 of the Indian Ports Act, 1908, after clause (*cc*), the following clause shall be added, namely — 1908. Amendment of section 6, Act XV of 1908

"(*ccc*) for regulating the bunkering of vessels with liquid fuel in any such port and the description of barges, pipe lines or tank vehicles to be employed in such bunkering,"

ACT No X OF 1925 [2]

[*18th March, 1925*]

An Act to amend the Cantonments (House-Accommodation) Act, 1923.

WHEREAS it is expedient to amend the Cantonments (House-Accommodation) Act, 1923, for the purposes hereinafter appearing, It is hereby enacted as follows:— 1923.

1. This Act may be called the Cantonments (House-Accommodation Amendment) Act, 1925. Short title.

2. In sub-section (*1*) of section 2 of the Cantonments (House-Accommodation) Act, 1923 (hereinafter referred to as the said Act),— 1923. Amendment of section 2, Act VI of 1923

(*a*) in clause (*b*) for the word "Committee" the word "Board" shall be substituted,

(*b*) after clause (*b*) the following clause shall be inserted, namely —

"(*bb*) 'Cantonment Board' means a Cantonment Board constituted under the Cantonments Act, 1924;" 1924

(*c*) in clause (*g*) for the words "a Cantonment Magistrate" the words "an officer of the Cantonments Department" shall be substituted.

3. In section 17 and in clause (*a*) of sub-section (*1*) of section 22 of the said Act, for the words "Military Works" wherever they occur, the words "Military Engineer" shall be substituted Amendment of sections 17 and 22, Act VI of 1923

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[1] For Statement of Objects and Reasons, see Gazette of India, 1925, Pt V, p 47
[2] For Statement of Objects and Reasons, see Gazette of India, 1925, Pt V, p 54

Amendment of section 34, Act VI of 1923.

4. In section 34 of the said Act, for the words "under the Cantonments Act, 1910, or any rule made thereunder" the following shall be substituted, namely:—

"in accordance with a bye-law made under clause (*29*) of section 282 of the Cantonments Act, 1924".

Amendment of section 37, Act VI of 1923.

5. In section 37 of the said Act, for the word "Committee" the word "Board" shall be substituted.

Substitution of title "Officer Commanding the station".

6. For the words "Commanding Officer of the Cantonment", wherever they occur in the said Act, the words "Officer Commanding the station" shall be substituted.

ACT No. XI OF 1925.[1]

[*18th March, 1925.*]

An Act further to amend the Indian Merchant Shipping Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923, for certain purposes hereinafter appearing; It is hereby enacted as follows:— XXI of 1923.

Short title.

1. This Act may be called the Indian Merchant Shipping (Second Amendment) Act, 1925.

Amendment of section 203, Act XXI of 1923.

2. In section 203 of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said Act),— XXI of 1923.

(*a*) in sub-section (*1*), for the words "Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden and shall not leave", the words "Any officer empowered by the Local Government in this behalf may, by order in writing, require any pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, to touch at Aden and not to leave" shall be substituted; and

(*b*) in sub-section (*2*), after the word "ship" the words "in respect of which an order has been made under this section" shall be inserted, and for the words "by this section" the words "under this section" shall be substituted.

Amendment of section 204, Act XXI of 1923.

3. In section 204 of the said Act, for the words "The authority at Aden empowered to grant the certificate required under section 203",

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 25, and for Report of Select Committee, *see ibid*, p. 132.

the words "Where any pilgrim ship touches at Aden in compliance with an order made under section 203, the authority at Aden empowered to grant the certificate required under that section" shall be substituted.

Amendment of section 205, Act XXI of 1923.

4. In section 205 of the said Act, in clause (a) after the word "shall" the words "if so required by an order under section 203" shall be inserted, and for the words and figures "by section 203" the words "under that section" shall be substituted.

Insertion of new section 208A in Act XXI of 1923.

5. After section 208 of the said Act the following section shall be inserted, namely:—

Conditions for securing return passages for pilgrims.

"208A. No pilgrim shall be received on board any pilgrim ship at any port or place in British India for conveyance in the lowest class available on the ship, unless he—

(a) is in possession of a return ticket, or

(b) has deposited with the prescribed person such sum for the purpose of defraying the cost of a return ticket as the Governor General in Council may specify by notification in the Gazette of India:

Provided that this prohibition shall not apply in the case of any such pilgrim who has made a declaration on oath or affirmation in such form as may be prescribed, before an authority appointed in this behalf by the Local Government, that he does not intend to return to India within three years after the date of declaration."

Amendment of section 209, Act XXI of 1923.

6. In section 209 of the said Act,—

(a) to sub-section (1) the following proviso shall be added, namely:—

"Provided that no pilgrim to whom the prohibition contained in section 208A applies shall be entitled to, or shall be provided with, a ticket other than a return ticket unless he has made the deposit required by that section", and

(b) in sub-section (2) for the words "shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed" the following shall be substituted, namely:—

"shall, subject to any conditions or deductions which may be prescribed, be entitled to the refund of any passage-money which he may have paid, and of any deposit which he may have made in compliance with the provisions of section 208A, and if any pilgrim who has paid for a return ticket or made such deposit dies in the Hedjaz or on the voyage thereto, or does not return to British India before the expiration of one year from the date on which he paid for the return ticket or made such deposit the person nominated by him in writing in the prescribed manner or, if no person has been so nominated his legal representative or the pilgrim

himself, as the case may be, shall, if the pilgrim was in possession of a return ticket, be entitled to the refund, subject as aforesaid, of half the passage-money paid by the pilgrim or, if the pilgrim had made a deposit, be entitled to the refund unconditionally of the whole of the deposit made by him."

Insertion of new section 209A in Act XXI of 1923.

7. After section 209 of the said Act the following section shall be inserted, namely :—

Cost of return journey of pilgrims on ships other than those for which return ticket is available.

"209A. (*1*) Port-clearance shall not be granted from any port in British India to any pilgrim ship unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond for the sum of ten thousand rupees, conditioned that, if any pilgrim who has been carried to the Hedjaz by that ship with a return ticket issued in British India within the previous eighteen months is owing to his inability to obtain accommodation on a ship for which the return ticket is available, detained at Jeddah for a longer period than twenty-five days from the day on which he presents his ticket to the British Consul at Jeddah, notifying his desire to embark for the return passage, the master, owner or agent aforesaid shall pay to the Local Government in respect of such pilgrim such sum not exceeding double the whole sum received by such master, owner or agent in respect of the return ticket as the Local Government claims as the cost of repatriating the pilgrim, together with a sum of one rupee for each day after the expiry of the twenty-five days aforesaid during which the pilgrim has been detained at Jeddah :

Provided that, for the purpose of computing the said period of twenty-five days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war disturbance or any other cause not arising from any act or default of the master, owner or agent.

(*2*) A certificate of such detention purporting to be made and signed by the British Consul at Jeddah shall be received in evidence in any Court in British India without proof of the signature or of the official character of the person who has signed the same."

Amendment of section 213, Act XXI of 1923.

8. In sub-section (*1*) of section 213 of the said Act,—

(*a*) after clause (*o*) the following clause shall be inserted, namely :—

"(*oo*) the manner in which deposits shall be made for the purposes of section 208A, and any matter in respect of which provision is, in the opinion of the Governor General in Council, necessary or expedient for the purpose of giving effect to the provisions of that section;"

(*b*) in clause (*q*), after the word "passage-money" the words "and of deposits made under section 208A" shall be inserted, and to the same clause after the words "pilgrim ship" the words "and the refund of passage money or deposits to the nominees and legal representatives of pilgrims who have died in the Hedjaz or on the voyage thereto, or to pilgrims who do not return to British India within the period provided in section 209 or to the nominees of such pilgrims and the manner in which persons shall be nominated for the purpose of entitling them to such refunds," shall be added, and

(*c*) after clause (*q*) the following clause shall be inserted, namely :—

"(*qq*) the period after which unclaimed passage money and deposits liable to be refunded shall lapse to Government, and the purposes to which sums so lapsing shall be applied"

ACT No XII OF 1925 [1]

[*18th March, 1925*]

An Act to provide for the better regulation of cotton ginning and cotton pressing factories.

WHEREAS it is expedient to provide for the better regulation of cotton ginning and cotton pressing factories It is hereby enacted as follows —

Short title, extent and commencement.

1. (*1*) This Act may be called the Cotton Ginning and Pressing Factories Act, 1925

(*2*) It extends to the whole of British India (except Burma), including British Baluchistan and the Sonthal Parganas

(*3*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "bale" means any pressed package of cotton of whatever size or density ;

(*b*) "cotton" means ginned or unginned cotton, or cotton waste,

(*c*) "cotton ginning factory" means any place where cotton is ginned or where cotton fibre is separated from cotton seed by any process whatever involving the use of steam, water or other mechanical power or of electrical power,

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[1] For the Statement of Objects and Reasons, *see* Gazette of India 1924 Pt V, p 115 and for Report of Select Committee, *see* Gazette of India, 1925, Part V, p 59

[2] This Act was brought into force on the 8th August, 1925, *see* Gen R & O, Vol. V, p 625

(*d*) "cotton pressing factory" means any factory as defined in the Indian Factories Act, 1911, in which cotton is pressed into bales; XII of 1911.

(*e*) "cotton waste" means droppings, strippings, fly and other waste products of a cotton mill or of a cotton ginning factory or of a cotton pressing factory, but does not include yarn waste;

(*f*) "Indian Central Cotton Committee" means the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923, and includes any sub-committee appointed by it to perform any function of the Indian Central Cotton Committee under this Act; and XIV of 1923.

(*g*) "occupier" includes a managing agent or other person authorised to represent the occupier;

(*h*) "prescribed" means prescribed by or under rules made under this Act.

Maintenance of registers.

3. (*1*) The owner of every cotton ginning factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a ginning register containing a record of all cotton ginned in the factory and of the names of the persons for whom and the dates on which the cotton has been ginned and of the amount ginned for each person.

(*2*) The owner of every cotton pressing factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a press register containing a daily record of the number of bales pressed in the factory, the serial number of each bale, and the name of the person for whom it has been pressed.

(*3*) The owner or the person in charge of a cotton ginning or cotton pressing factory shall be bound to produce any ginning register or press register maintained under this section when required to do so by any person appointed by the Local Government in this behalf, and the owner or person in charge of any cotton pressing factory shall be bound to furnish to the Indian Central Cotton Committee, if so required by it in writing, a copy, certified as correct by the owner or person in charge of the factory, of the entry in any press register maintained at the factory relating to any specified bale.

(*4*) No register required to be maintained by this section shall be destroyed until after the expiration of three years from the date of the last entry therein.

(*5*) If—

(*a*) in any factory any register required by this section to be maintained is not maintained or is maintained in any form other than the form, if any, prescribed for the purpose, or

(b) any entry in any such register is proved to be false in any material particular, or

(c) any such register is destroyed before the expiration of the period referred to in sub section (4),

the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub section to five hundred rupees

(6) If the owner or the person in charge of any factory fails to produce any register, or to furnish a certified copy of any entry, when required to do so under sub section (3), or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false he shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub section, to five hundred rupees

Marking of bales

4 (1) The owner of every cotton pressing factory shall cause every bale pressed in the factory to be marked in such manner as may be prescribed before it is removed from the press house, with a serial number and with the mark prescribed for the factory

(2) If any bale is removed from the press house of any cotton pressing factory without having been marked as required by sub section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees

Returns

5 (1) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week and the approximate average net weight of the bales pressed in that week

(2) The Local Government shall compile from the weekly returns, and shall publish in such manner as the Governor General in Council may direct a statement showing the total number of bales pressed in the province during the week and from the commencement of the season to the end of the week to which the returns relate

Provided that the number of bales pressed in any individual factory shall not be published

(3) If default is made in submitting any return as required by sub-section (1) the owner of the factory shall be punished with fine which may extend to fifty rupees

(4) Where the owner of a cotton pressing factory has notified to the prescribed authority that the work of pressing bales in that factory has been suspended it shall not be necessary for the owner to submit returns under sub section (1) until such work has been resumed

Explanation.—In this section "season" means the period notified in this behalf by the Local Government in the local official Gazette.

Scales and weights.

6. (*1*) No scales or weights shall be used in any cotton ginning or cotton pressing factory other than the scales or weights, if any, prescribed by the Local Government as standard for the district in which the factory is situated.

(*2*) If in any factory any scale or weight is used in contravention of the provisions of sub-section (*1*), the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has been previously convicted of any offence under this sub-section, to five hundred rupees.

Liability of lessee as owner.

7. (*1*) Where the owner of a cotton ginning or pressing factory has leased the factory for a period of not less than one month, in the case of a cotton ginning factory or three months, in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority, the lessee shall be deemed to be the owner of the factory, from the date of the notice and for the period of the continuance of the lease, for the purposes of section 3, in respect of the registers maintained or to be maintained from that date and for that period, and for the purposes of sections 4, 5 and 6.

(*2*) On the termination of the lease the lessee shall hand over to the lessor the registers maintained under section 3, and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(*3*) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punished with fine which may extend to fifty rupees.

Liability on ...fer of ...hip.

8. (*1*) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under section 3, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(*2*) If default is made in handing over any register or making any report as required by sub-section (*1*), the transferor or the transferee, as the case may be, shall be punished with fine which may extend to fifty rupees.

9. (*1*) In the case of cotton ginning factories the construction of which is commenced after the commencement of this Act— **Structural requirements for factories**

(*a*) gin houses shall be provided with separate entrances and exits for the bringing in of unginned and the taking out of ginned cotton respectively, and

(*b*) the factories shall be constructed in accordance with plans and specifications approved by the prescribed authority

Provided that nothing in this sub section shall apply to any factory in which only roller gins are used where the number of such gins is not more than four

(*2*) Within such period after the commencement of this Act as may be prescribed the owner of every cotton pressing factory in which cotton is handled on the ground floor shall cause the press house to be paved or provided with other suitable flooring to the satisfaction of the prescribed authority

(*3*) If the owner of any factory fails to comply with any provision of this section which is applicable to the factory he shall be punished with fine which may extend to one hundred rupees

(*4*) (*a*) Where the owner of a factory has been convicted under sub-section (*3*) the prescribed authority may serve on the owner of the factory an order in writing directing that such alterations shall be made in the factory, before a specified date, as in the opinion of the said authority are necessary to secure compliance with the provisions of sub section (*1*) or sub section (*2*) as the case may be

(*b*) Where the alterations are not made in accordance with the order served under clause (*a*) of this sub section the prescribed authority may serve on the owner and on the occupier if any, of the factory an order in writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the order served under clause (*a*) of this sub section and the owner and the occupier if any shall be jointly and severally liable to fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause

10 Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment **Liability of officers of a company**

11 (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or a Chief Presidency Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government **Cognizance of offences**

Explanation.—In this section "season" means the period notified in this behalf by the Local Government in the local official Gazette.

Scales and weights.

6. (*1*) No scales or weights shall be used in any cotton ginning or cotton pressing factory other than the scales or weights, if any, prescribed by the Local Government as standard for the district in which the factory is situated.

(*2*) If in any factory any scale or weight is used in contravention of the provisions of sub-section (*1*), the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has been previously convicted of any offence under this sub-section, to five hundred rupees.

Liability of lessee as owner.

7. (*1*) Where the owner of a cotton ginning or pressing factory has leased the factory for a period of not less than one month, in the case of a cotton ginning factory or three months, in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority, the lessee shall be deemed to be the owner of the factory, from the date of the notice and for the period of the continuance of the lease, for the purposes of section 3, in respect of the registers maintained or to be maintained from that date and for that period, and for the purposes of sections 4, 5 and 6.

(*2*) On the termination of the lease the lessee shall hand over to the lessor the registers maintained under section 3, and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(*3*) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punished with fine which may extend to fifty rupees.

Liability on [illegible] of [illegible]

8. (*1*) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under section 3, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(*2*) If default is made in handing over any register or making any report as required by sub-section (*1*), the transferor or the transferee, as the case may be, shall be punished with fine which may extend to fifty rupees.

9. (*1*) In the case of cotton ginning factories the construction of which is commenced after the commencement of this Act— Structural requirements for factories

(*a*) gin houses shall be provided with separate entrances and exits for the bringing in of unginned and the taking out of ginned cotton respectively, and

(*b*) the factories shall be constructed in accordance with plans and specifications approved by the prescribed authority

Provided that nothing in this sub section shall apply to any factory in which only roller gins are used where the number of such gins is not more than four

(*2*) Within such period after the commencement of this Act as may be prescribed, the owner of every cotton pressing factory in which cotton is handled on the ground floor shall cause the press house to be paved or provided with other suitable flooring to the satisfaction of the prescribed authority

(*3*) If the owner of any factory fails to comply with any provision of this section which is applicable to the factory, he shall be punished with fine which may extend to one hundred rupees

(*4*) (*a*) Where the owner of a factory has been convicted under sub-section (*3*), the prescribed authority may serve on the owner of the factory an order in writing directing that such alterations shall be made in the factory, before a specified date as in the opinion of the said authority are necessary to secure compliance with the provisions of sub section (*1*) or sub section (*2*) as the case may be

(*b*) Where the alterations are not made in accordance with the order served under clause (*a*) of this sub section, the prescribed authority may serve on the owner and on the occupier, if any, of the factory an order in writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the order served under clause (*a*) of this sub section and the owner and the occupier, if any, shall be jointly and severally liable to fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause

10 Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment Liability of officers of a company

11 (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or a Chief Presidency Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government Cognizance of offences.

(2) No offence punishable under this Act shall be tried by any Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class.

Power of the Governor General in Council to make rules.

12. The Governor General in Council may make rules[1] to provide for—

(*a*) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales;

(*b*) the manner in which bales shall be marked; and

(*c*) the manner in which the weekly statements referred to in section 5 shall be published.

Power of the Local Government to make rules.

13. The Local Government may, by notification in the local official Gazette, make rules consistent with this Act to provide for all or any of the following matters, namely :—

(*a*) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and registers;

(*b*) the appointment of the authority to whom and the time within which the returns required by section 5 shall be made;

(*c*) the weights and scales to be used in cotton ginning and cotton pressing factories in any district in the province, and the inspection of the same;

(*d*) the appointment of authorities for the purposes of sections 7, 8 and 9;

(*e*) the manner of service of orders made under section 9;

(*f*) the powers of entry and inspection which may be exercised by District Magistrates or by any officer specially empowered in this behalf by the Local Government;

(*g*) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act.

Power to reject unmarked bales in fulfilment of contracts.

14. After the expiration of one year from the commencement of this Act, any person who has made a contract for the purchase of baled cotton may require that no bales other than bales marked in accordance with section 4 shall be supplied in fulfilment of such contract, and, if he does so require, no bale not so marked shall be tenderable in fulfilment of the contract:

Provided that nothing in this section shall apply to a contract for the sale and delivery of cotton grown before, or less than one year after, the commencement of this Act.

Protection for acts done under Act.

15. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

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[1] For such rules, *see* Gen. R. & O., Vol. V, p. 625.

ACT No XIII OF 1925 [1]

[*25th March, 1925*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to remit or vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to reduce the import and excise duties on motor spirit, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into certain parts of British India to remit or vary certain duties leviable under the Indian Tariff Act 1894 to fix maximum
98 rates of postage under the Indian Post Office Act 1898, to reduce the import and excise duties on motor spirit further to amend the Indian
'3 Paper Currency Act 1923 and to fix rates of income tax, It is hereby enacted as follows —

1 (*1*) This Act may be called the Indian Finance Act, 1925 — **Short title, extent and duration**

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

(*3*) [2]* * * * *

2 [*Fixation of Salt duty*] *Repealed by the Repealing Act 1927 (12 of 1927)*

3 With effect from the first day of April, 1925 the amendments specified in the First Schedule to this Act shall be made in Schedule II to the Indian Tariff Act 1894 — **Amendment of Act VIII of 1894**

4 [*Postal rates*] *Repealed by the Repealing Act 1927 (12 of 1927)*

5 With effect from the first day of April 1925 the following amend-
917 ments shall be made in the Motor Spirit (Duties) Act, 1917, namely — **Amendment of Act II of 1917**

(*a*) in sub section (*1*) of section 3 for the words ' six annas ' the words ' four annas ' shall be substituted

(*b*) section 6 shall be omitted

6 [*Amendment of Act X of 1923*] *Repealed by the Repealing Act, 1927 (12 of 1927)*

7. [*Income tax and super tax*] *Repealed by the Repealing Act, 1927 (12 of 1927)*

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[1] For Statement of Objects and Reasons see Gazette of India 1925 Pt V, p 70

[2] Repealed by s. 2 and Sch of the Repealing Act 1927 (12 of 1927)

VIII of 1894. 2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. Amendment of the Second Schedule, Act VIII of 1894.

THE SCHEDULE.

(See section 2)

1 In Item No 9, after the words "kainit salts" the words "carbo lime, urea" shall be inserted.

2. After Item No 10, the following item shall be inserted, namely —

"10 A. 1 Rubber, raw"

3. After Item No. 14, the following item shall be inserted, namely —

"14 A. 1 Sulphur".

4. In Item No 15—

(i) for the word "seed crushers" the words "seed and corn crushers" shall be substituted,

(ii) after the word "hay-tedders" the words "potato diggers, latex spouts, spraying machines" shall be inserted, and after the word "implements" where it occurs for the second and third times the word "machines" shall be inserted

5 After Item No 21, the following item shall be inserted, namely —

"21 A 1 Postage stamps, whether used or unused"

6 In Item No 22, after the words "used gunny bags" the words "or cloth" shall be inserted

7 For Item No 34 the following item shall be substituted, namely —

			Rs. A.
"34	Sugar, excluding confectionery (see No 124)—		
	(1) Sugar, crystallised or soft 23 Dutch Standard and above	cwt.	4 8
	(2) Sugar, crystallised or soft inferior to 23 Dutch Standard but not inferior to 8 Dutch Standard . . .	cwt.	4 0
	(3) Sugar, below 8 Dutch Standard, molasses and sugar candy	*ad valorem*	25 per cent."

8. In Item No. 37, the words "and Cigarettes" shall be omitted

9 After Item No 37, the following item shall be inserted, namely —

			Rs A.
"37-A.	Cigarettes of value—		
	(a) not exceeding Rs 10 8 per thousand . .	Thousand.	7 0
	(b) exceeding Rs 10 8 per thousand . .	Thousand.	10 8"

NOTE.—For the purposes of this item, 'value' means real value as defined in section 30 of the Sea Customs Act, 1878, provided that the amount to be deducted on account of duties payable on importation to determine the real value in accordance with the provisions of clause (a) of the said section shall be Rs. 7 per thousand.

10. After Item No. 45, the following item shall be inserted, namely :—

"45-A.	Silk mixtures that is to say, (a) fabrics composed in part of some other textile than silk and in which any portion either of the warp or of the weft but not of both is silk ; (b) fabrics not being silk on which silk is superimposed such as embroidered fabrics ; (c) articles made from such fabrics and not otherwise specified (*see* No. 100-A).	*Ad valorem.*	20 per cent."

11. In Item No. 53, the word "and" shall be omitted, and after the words "aeroplane engine parts", the words "and rubber tyres and tubes used exclusively for aeroplanes" shall be added.

[1] * * * * *

15. In Item No. 85, after the word "silk" the words "or silk mixtures" shall be inserted, and for the word and figures "No. 134" the words, figures and letter "Nos. 100-A and 134" shall be substituted.

16. To Item No. 99, the following shall be added, namely :—

"and postage stamps, whether used or unused (*see* No. 21-A)".

17. In Item No. 100, after the words "used gunny bags" the words "or cloth" shall be inserted.

18. After Item No. 100, the following item shall be inserted, namely :—

"100-A. Silk goods used or required for medical purposes, namely :—

Silk ligatures ; elastic silk hosiery, elbow pieces, thigh pieces, knee caps, leggings, socks, anklets, stockings, suspensory bandages, silk abdominal belts, silkweb catheter tubes, and oiled silk".

19. After Item No. 106, the following item shall be inserted, namely :—

"106-A. Fireworks specially prepared as danger or distress lights for the use of ships."

20. In Item No. 115, for the word and figures "No. 139" the words and figures "Nos. 53 and 139" shall be substituted.

21. To Item No. 134, the following shall be added, namely :—

"not otherwise specified (*see* Nos. 45-A and 100-A)".

22. To Item No. 135, the following shall be added, namely :—

"not otherwise specified (*see* No. 106-A)".

* * * * *

[1] The entries Nos. 12, 13 and 14 were repealed by the Repealing Act, 1927 (12 of 1927).

[2] The entry No. 23 was repealed by the Repealing Act, 1927 (12 of 1927).

ACT No XV OF 1925 [1]

[25th March, 1925]

An Act further to amend the Indian Stamp Act, 1899.

II of 1899 WHEREAS it is expedient further to amend the Indian Stamp Act, 1899, for the purpose hereinafter appearing It is hereby enacted as follows —

Short title. 1 This Act may be called the Indian Stamp (Amendment) Act, 1925

II of 1899 Amendment of Schedule I, Act II of 1899. 2 In Article No 47 in Schedule I to the Indian Stamp Act, 1899, after Division C, the following Division shall be inserted namely —

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One anna '

ACT No. XVI OF 1925 [2]

[25th March, 1925]

An Act further to amend the Indian Income-tax Act, 1922.

XI of 1922 WHEREAS it is expedient further to amend the Indian Income tax Act, 1922, for the purpose hereinafter appearing, It is hereby enacted as follows —

Short title. 1 This Act may be called the Indian Income tax (Second Amendment) Act, 1925

XI of 1922 Amendment of section 18, Act XI of 1922. 2. In section 18 of the Indian Income tax Act, 1922, after sub-section (2) the following sub section shall be inserted namely —

" (2A) Notwithstanding anything hereinbefore contained, for the purpose of making the deduction under sub section (2), there shall be included in the amount payable any income chargeable under the head ' Salaries ' which is payable to the assessee out of India by or on behalf of Government, and the value in rupees of such income shall be calculated at the prescribed rate of exchange '

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[1] For Statement of Objects and Reasons, see Gazette of India 1925 Pt. V p 75

[2] For Statement of Objects and Reasons see Gazette of India 1925 Pt V, p. 71. The Act has been declared in force in the Angul District under s. 5 of the Angul Laws Regulation 1913 (3 of 1913) see Notification No. 2,61 P R, dated 3rd August, 1927, B and O Gazette, 1927, Pt II, p 9 2.

ACT No. XVII OF 1925.[1]

[*28th March, 1925.*]

An Act to amend the Prisons Act, 1894.

WHEREAS it is expedient to amend the Prisons Act, 1894, for the purposes hereinafter appearing; It is hereby enacted as follows:— IX of

Short title

1. This Act may be called the Prisons (Amendment) Act, 1925.

Amendment of section 46, Act IX of 1894.

2. In section 46 of the Prisons Act, 1894 (hereinafter referred to as the said Act),— IX of

(*a*) to clause (*2*) after the word "form" the following words shall be added, namely:—

"for such period as may be prescribed by rules made by the Governor General in Council";

(*b*) in clause (*8*) for the word "six" the word "three" shall be substituted;

(*c*) clause (*11*) is hereby repealed;

(*d*) in clause (*12*) for the word "solitary" the word "cellular" shall be substituted; and the words "as defined in clause (*11*)" shall be omitted; and

(*e*) clauses (*12*) and (*13*) shall be re-numbered, respectively, clauses (*11*) and (*12*).

Amendment of section 47, Act IX of 1894.

3. (*1*) Section 47 of the said Act shall be re-numbered sub-section (*1*) of section 47.

(*2*) In the said sub-section—

(*a*) in exception (*2*) for the word "solitary" the word "cellular" shall be substituted;

(*b*) for exception (*3*) the following exception shall be substituted, namely:—

"(*3*) cellular confinement shall not be combined with separate confinement so as to prolong the total period of seclusion to which the prisoner shall be liable;"

(*c*) after exception (*4*) the following exception shall be added, namely:—

"(*5*) No punishment shall be combined with any other punishment in contravention of rules made by the Governor General in Council."

(*3*) To the said section the following sub-section shall be added, namely:—

"(*2*) No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 48.

ACT No XVIII OF 1925 [1]

[28th March, 1925]

An Act further to amend the Indian Cotton Cess Act, 1923.

XIV of 1923 WHEREAS it is expedient further to amend the Indian Cotton Cess Act, 1923, for the purposes hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Indian Cotton Cess (Amendment) Act, 1925 Short title.

XIV of 1923 2 In section 8 of the Indian Cotton Cess Act, 1923, for sub section (2) the following sub sections shall be substituted, namely — Amendment of section 8, Act XIV of 1923

" (2) In respect of cotton exported by land on which the cess is leviable—

(a) where the cotton is exported to any territory which is foreign territory as defined in the Land Customs Act, 1924, the cess shall be assessed by such authorities and in such manner as may be prescribed and shall subject to the provisions of this Act and of any rules made thereunder, for all or any of the purposes of the Land Customs Act, 1924, *be deemed to be a duty of land customs leviable under section* 5 of the Indian Tariff Act, 1894, and (XIX of 1924; XIX of 1924; VIII of 1894)

(b) in any other case, the cess shall be assessed and levied by such authorities and in such manner as may be prescribed

IV of 1924 (3) The Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, may make rules providing, on such conditions as may be specified in the rules, for—

(a) the refund of the cess levied where cotton is exported by land and subsequently imported into India, and

(b) the export by land, without payment of the cess, of cotton which is subsequently to be imported into India "

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[1] For Statement of Objects and Reasons, see Gazette of India, 1925, Pt. V, p 72.

ACT No. XIX OF 1925.[1]

[27th August, 1925.]

An Act to amend and consolidate the law relating to Government and other Provident Funds.

WHEREAS it is expedient to amend and consolidate the law relating to Government and other Provident Funds; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Provident Funds Act, 1925.

(*2*) It extends to the whole of British India, including British Baluchistan.

(*3*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "compulsory deposit" means a subscription to, or deposit in, a Provident Fund which, under the rules of the Fund, is not, until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance, and includes any contribution ~~credited in respect of any such subscription or deposit~~ and any interest or increment which has accrued under the rules of the Fund on any such subscription, deposit or contribution, and also any such subscription, deposit, contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency;

(*b*) "contribution" means any amount credited in a Provident Fund, by [3][any authority administering the Fund], by way of addition to, or ~~otherwise in respect of, a subscription to, or deposit in~~, the Fund; and "contributory Provident Fund" means a Provident Fund the rules of which provide for the crediting of contributions;

(*c*) "dependant" means any of the following relatives of a deceased subscriber to, or a depositor in, a Provident Fund, namely, a wife, husband, parent, child, minor brother, unmarried sister and a deceased son's widow and child, and, where no parent of the subscriber or depositor is alive, a paternal grand-parent;

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1 For Statement of Objects and Reasons, see Gazette of India, 1924, Pt. V, p. 122. The Act has been declared in force in the Angul District, see B. & O. Gazette, 1927, Pt. II, p. 942.

2 This Act was brought into force on the 1st April 1926, see Gen. R. & O., Vol. V, p. 641.

3 These words were substituted for the words "the authority by which the Fund has been constituted" by s. 2 of the Provident Funds (Amendment) Act, 1925 (28 of 1925).

(d) " Government Provident Fund " means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of the Government for any class or classes of its employees or [1][of persons employed in educational institutions or employed by bodies existing solely for educational purposes]

(e) " Provident Fund " means a fund in which subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions ~~credited in respect of such subscriptions or deposits~~ and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund

(f) " Railway administration " means—

(i) any company administering a railway or tramway in British India either under a special Act of Parliament or of the Indian or a local Legislature or under contract with the Secretary of State for India in Council, the Governor General in Council or a Local Government, or

(ii) the manager of any railway or tramway administered by the Governor General in Council or a Local Government,

and includes, in any case referred to in sub clause (ii) the Governor General in Council or the Local Government, as the case may be

(g) " Railway Provident Fund " means a Provident Fund constituted by the authority of a railway administration for any class or classes of its employees

Protection of compulsory deposits.

3 (1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920) shall be entitled to or have any claim on any such compulsory deposit

(2) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund to any dependant of the subscriber or depositor, or to such person as may be authorised by law to receive payment on his behalf, shall subject to any deduction authorised by this Act and save where the dependant is the widow or child of the subscriber or depositor, subject also to the rights of an assignee under an assignment made before the commencement of this Act, vest in the dependant, and

[1] These words were substituted for the words 'for teachers in educational institutions' by s. 2 of the Provident Funds (Amendment) Act, 1927 (7 of 1927)

shall, subject as aforesaid, be free from any debt or other liability incurred by the deceased or incurred by the dependant before the death of the subscriber or depositor.

Provisions regarding repayments.

4. (*1*) When under the rules of any Government or Railway Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction authorised by this Act, has become payable, the officer whose duty it is to make the payment shall pay the sum or balance, as the case may be, to the subscriber or depositor, or, if he is dead, shall—

(*a*) if the sum or balance, or any part thereof, vests in a dependant under the provisions of section 3, pay the same to the dependant or to such person as may be authorised by law to receive payment on his behalf; or

(*b*) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or any part thereof, which is not payable under clause (*a*), to any person nominated to receive it under the rules of the Fund, or, if no person is so nominated, to any person appearing to him to be otherwise entitled to receive it; or

(*c*) in the case of any sum or balance, or any part thereof, which is not payable to any person under clause (*a*) or clause (*b*) pay the same,—

(i) to any person nominated to receive it under the rules of the Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succession Certificate Act, 1889, or under the **VII of 1889.** Bombay Regulation VIII of 1827, entitling the holder thereof to receive payment of such sum, balance or part, or

(ii) where no person is so nominated, to any person who produces such probate, letters or certificate:

Provided that, where the whole or any part of any sum standing to the credit of the subscriber or depositor has been assigned to any other person before the commencement of this Act, and notice in writing of the assignment has been received by the officer from the assignee, the officer shall, after making any deduction authorised by this Act and any payment due under clause (*a*) to or on behalf of the widow or children of the subscriber or depositor—

(i) if the subscriber or depositor or, if he is dead, the person to whom in the absence of any valid assignment the sum or balance would be payable under this sub-section gives his consent in writing, pay the sum or part or the balance thereof, as the case may be, to the assignee, or

(ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court as to the person entitled to receive it

(2) The making of any payment authorised by sub section (1) shall be a full discharge to the Government or the railway administration, as the case may be, from all liability in respect of so much of the sum standing to the credit of the subscriber or depositor as is equivalent to the amount so paid

Rights of nominees.

5. (1) Subject to the provisions of this Act, but otherwise notwithstanding anything contained in any law for the time being in force or any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in, a *Government or Railway Provident Fund* of the sum standing to his credit in the Fund, or of any part thereof, any nomination, duly made in accordance with the rules of the Fund, which purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor, shall be deemed to confer such right absolutely, until such nomination is varied by another nomination made in like manner or is expressly cancelled by the subscriber or depositor by notice given in such manner and to such authority as is prescribed by those rules

(2) Notwithstanding anything contained in the Succession Certificate Act, 1889, (VII of 1889.) or the Bombay Regulation VIII of 1827, any such person shall, on the death of the subscriber or depositor, be entitled to the grant of a certificate under that Act, or that Regulation, as the case may be, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person of probate or letters of administration to the estate of the deceased

Power to make deductions.

6. *When the sum standing to the credit of any subscriber or depositor* in any Government or Railway Provident Fund which is a contributory Provident Fund becomes payable, there may, if the authority [1][specified in this behalf in the rules of the Fund] so directs, be deducted therefrom and paid to [2][Government or the Railway administration, as the case may be]—

(a) any amount due under a liability incurred by the subscriber or depositor to [2][Government or the Railway Administration], but not exceeding in any case the total amount of any contributions credited to the account of the subscriber or depositor and of any *interest or increment which has accrued on* such contributions, or

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[1] These words were substituted for the words "by which the Fund has been constituted" by the Provident Funds (Amendment) Act 1925 (28 of 1925)

[2] *These words were substituted for the words "that authority", ibid*

(b) where the subscriber or depositor has been dismissed from [1][his employment] for any reasons specified in this behalf in the rules of the Fund, or where he has resigned such employment within five years of the comm... of the said Act shall be numbered as sub-... shall

Am sec XI

Addition of Schedule to Act XIX of 1925. **4.** The following Schedule shall be added to the said Act, namely :—

"THE SCHEDULE.

LIST OF INSTITUTIONS.

[*See sub-section (2) of section 8.*]

1. The Pasteur Institute of India, Kasauli.
2. The Calcutta Improvement Tribunal.
3. A Court of Wards.
4. The Indian Central Cotton Committee.
5. The Trustees for the European Hospital for mental diseases at Ranchi.
6. The National Association for supplying female medical aid to the women of India.
7. A College affiliated to a University established by Statute."

been made by this Act."

ACT No. XX OF 1925.[3]

[*11th September, 1925.*]

An Act further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows :— V of 1908.

Short title. **1.** This Act[4] may be called the Code of Civil Procedure (Amendment) Act, 1925.

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[1] These words were substituted for the words "the employment of that authority" by the Provident Funds (Amendment) Act, 1925 (28 of 1925).

[2] For extension of the provisions of the Act to Provident Funds established by local authorities, *see* Gen. R. and O., Vol. V, pp. 640-641.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 169.

[4] This Act has been extended to the district of Ajmer-Merwara by s. 5 of Act 14 of 1874, *see* Notification No. 65-C.-1169, dated 25th August, 1926, Gazette of India, 1926, Pt. II-A., p. 324.

2 To clause (i) of the proviso to sub section (1) of section 60 of the Civil Procedure Code, 1908, the following proviso shall be added, namely — Amendment of section 60, Act V of 1908.

" Provided that where the decree-holder is a society registered or deemed to be *registered under* the Co-operative Societies Act, 1912, and the judgment-debtor is a member of the society, the provisions of sub clauses (i) and (ii) shall be construed as if the word ' twenty ' were substituted for the word ' forty ' wherever it occurs and the word ' forty ' for the word ' eighty ' "

ACT No XXI of 1925 [1]

[11th September, 1925]

An Act further to amend the Religious Endowments Act, 1863

XX of 1863 WHEREAS it is expedient further to amend the Religious Endowments Act, 1863, for the purposes hereinafter appearing, It is hereby enacted as follows —

1. This Act[2] may be called the Religious Endowments (Amendment) Act, 1925 Short title.

XX of 1863 2. In section 2 of the Religious Endowments Act, 1863 (hereinafter referred to as the said Act), after the words and Court " shall ' the words " save as provided in section 10," and after the words " district in which " the words ' or any other Court empowered in that behalf by the Local Government within the *local limits of the jurisdiction of* which," shall be inserted. Amendment of section 2 Act XX of 1863

3. To section 10 of the said Act the following *Explanation* shall be added, namely — Amendment of section 10 Act XX of 1863

" *Explanation* —In this section ' Civil Court ' means the principal Court of original civil jurisdiction in the district in which the mosques, temples or religious establishments for which the committee has been appointed or any of them are situate "

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt V, p 182.

[2] This Act has been extended to the *district of* Ajmer Merwara by s. 5 of Act 14 of 1874, *see* Notification No 65 C 1160, dated 25th August, 1926, Gazette of India, 1926, Pt II A, p 324

ACT No. XXII OF 1925.[1]

[11th September, 1925.]

An Act to amend the law relating to salt and salt-revenue.

WHEREAS, by rules made under section 45A of the Government of India Act, central and provincial subjects have been classified, for the purpose of distinguishing the functions of Local Governments from the functions of the Governor General in Council, and it is, therefore, expedient to amend certain enactments in force in the Presidencies of Fort St. George and Bombay relating to salt, being a subject classified in the aforesaid rules as a central subject, so as to vest in the Governor General in Council powers of control in respect of that subject; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Salt Law Amendment Act, 1925.

(2) It shall come into force on such date[2] or dates as the Governor General in Council may appoint, and different dates may be appointed for different provisions of this Act and for different parts of British India.

Repeal and amendment of certain enactments.

2. The Transport of Salt Act, 1879, the Madras Salt Act, 1889, and the Bombay Salt Act, 1890, are hereby amended to the extent and in the manner stated in the Schedule.

XVI of 1879. IV of 1[...] II of 1[...]

Saving of rules, etc., made by previous authorities.

3. Any appointment, notification, rule, order, licence, pass, permit or power in force before the commencement of this Act and made, issued or conferred by an authority, for the making, issuing or conferring of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made, issued or conferred by such new authority unless and until cancelled or withdrawn or superseded by an appointment, notification, rule or order made or issued by such new authority.

THE SCHEDULE.

(*See section 2.*)

PART I.—THE TRANSPORT OF SALT ACT, 1879 (XVI OF 1879).

(1) After section 1 the following section shall be inserted, namely :—

Definition.

"1A. The 'Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924."

IV of 19[...]

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 168.

[2] This Act came into force in the Madras Presidency on 1st January 1926, *see* Gen. R. & O., Vol. V, p. 642, in the Bombay Presidency excluding Sind and Aden, *ibid.*

(2) In clauses (*b*) and (*c*) of section 3, for the words "Governor of Bombay in Council" the words "Central Board of Revenue" shall be substituted

(3) In the third paragraph of section 6, for the words "Local Government" the words "Governor General in Council" shall be substituted

PART II.—THE MADRAS SALT ACT, 1889 (IV OF 1889)

(1) For the word "Commissioner," wherever it occurs in the Act, the words "Collector of salt revenue" shall be substituted

(2) In section 1, in clause (*l*) of section 3, and in sections 6, 9, 43, 71, 72 and 85, for the words "Governor in Council" the words "Governor General in Council" shall be substituted

(3) In clauses (*e*), (*g*) and (*k*) of section 3 and in sections 5, 7, 13, 14, 15, 32, 59 and 85A, for the words "Governor in Council" the words "Central Board of Revenue" shall be substituted

(4) In section 3—

(*a*) in clause (*h*) for the word "Government" the words "the Central Board of Revenue" shall be substituted,

(*b*) after clause (*k*) the following clause shall be inserted, namely —

"(*kk*) 'Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924", IV of 1924

and

(*c*) in clause (*l*), for the word "officer" the words "Collector of salt revenue" shall be substituted

(5) For section 4 the following section shall be substituted, namely —

Appointment of Collector of salt revenue.

"4 Notwithstanding anything contained in Regulations I and II of 1803, the Governor General in Council may, by notification,—

(*a*) appoint, after consideration of any recommendation made by the Governor in Council in this behalf, a Collector of salt-revenue who shall, subject to the orders of the Central Board of Revenue, control the administration of the Salt Department and the collection of the salt revenue, and

(*b*) withdraw from the Board of Revenue or the Collector of Land-revenue all or any of their or his powers in respect of the salt-revenue"

(*6*) In section 5, for the word "his" the word "its" shall be substituted.

(*7*) In clause (*a*) of section 16, for the words "the Governor in Council" the words "His Majesty" shall be substituted.

(*8*) In clause A of section 43, for the word and figure "section 8" the words, *letter and figure* "clause (*c*) of section 7" shall be substituted.

(*9*) In section 47, for the words "Whenever any officer of the Salt, Police, Land-revenue, Abkari or Customs Departments, empowered by the Governor in Council in this behalf" the words "When any officer of the Salt or Customs Departments empowered in this behalf by the Central Board of Revenue or any officer of the Police, Land-revenue or Abkari Departments empowered in this behalf by the Central Board of Revenue with the approval of the Governor in Council" shall be substituted.

(*10*) In section 80, for the words "Fort St. George Gazette," where they first occur, the words "Gazette of India" shall be substituted, and the proviso to the first sentence shall be omitted.

(*11*) Section 86 shall be renumbered sub-section (*1*) of section 86 and to the said section as renumbered the following sub-section shall be added, namely:—

"(*2*) The Governor General in Council may, on the application of any person aggrieved by any proceeding or order of the Central Board of Revenue under this Act, reverse or modify such proceeding or order."

PART III.—THE BOMBAY SALT ACT, 1890 (II OF 1890).

(*1*) Except in clause (*a*) of section 3, in section 5 and in sub-sections (*2*) and (*3*) of section 57, for the words "Commissioner" and "Commissioners," wherever they occur in the Act, the words "Collector" and "Collectors," respectively, shall be substituted.

(*2*) For clause (*a*) of section 3 the following clause shall be substituted, namely:—

"(*a*) 'Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924." ***IV of 1924.***

(*3*) In section 4—

(*a*) for the words "Governor in Council" the words "Governor General in Council" shall be substituted;

(*b*) in sub section (*1*), the words " Subject to such control of the Governor General in Council as may be prescribed by rules made under section 45A of the Government of India Act " shall be omitted,

(*c*) to sub section (*1*) the following proviso shall be added, namely —

" Provided that the Governor General in Council before appointing a Collector of Salt revenue shall consider any recommendation made by the Governor in Council in this behalf ",

and

(*d*) clause (*b*) of sub section (*2*) shall be omitted

(*4*) In section 5—

(*a*) *in sub section (1), for the words* ' *Commissioners to whom* they are respectively subordinate and to the orders of Government " the words ' Central Board of Revenue " shall be substituted, and

(*b*) sub section (*2*) shall be omitted

(*5*) In sections 6 and 13, for the word " Government " the words " the Governor General in Council " shall be substituted

(*6*) *In sections 7 and 42, the words " Collector or " shall be omitted.*

(*7*) To section 8 the following further proviso shall be added, namely —

" Provided, further, that the powers conferred on Government by section 23 of the said Code shall, in respect of officers of the Salt Department be exercised by the Central Board of Revenue only "

(*8*) (*a*) In sections 10, 17, 24, 25, 36 and sub-section (*1*) of section 52, for the words " Governor in Council " the words " Central Board of Revenue " shall be substituted

(*b*) In sections 11, 37, 58 and 59 and in sub section (*3*) of section 52, for the words " Governor in Council " the words " Governor General in Council " shall be substituted

(*9*) In sections 10, 36 and 60, for the words " Bombay Government Gazette " the words " Gazette of India" shall be substituted.

(*10*) In section 10—

(*a*) in clause (*b*) of sub section (*1*) at the beginning, the words " with the approval of the Governor in Council in respect of an officer of a department under the Governor in Council" shall be inserted,

(*b*) in sub section (*2*), for the words " him " and " Government," respectively, the word " it " shall be substituted.

(*11*) In section 25, for the words "he may" the words "the Governor in Council shall, on the request of the Board" shall be substituted.

(*12*) In section 57—

(*a*) in sub-section (*1*), the words "or a Collector" shall be omitted;

(*b*) in sub-section (*2*), for the words "Commissioner, if any, to whom the Collector is subordinate, and, if there be no such Commissioner, to Government" the words "Central Board of Revenue" shall be substituted; and

(*c*) for sub-sections (*3*) and (*4*) the following sub-section shall be substituted, namely :—

"(*3*) The Governor General in Council may, on the application of any person aggrieved by any order passed under this Act by the Central Board of Revenue, reverse or modify such order."

(*13*) To section 58, after clause (*j*), the following clause shall be added, namely :—

"(*k*) the making and disposal of appeals under this Act."

(*14*) In section 60, the words "and, in Sind, in the Sind Official Gazette" shall be omitted.

ACT No. XXIII of 1925.[1]

[11th September, 1925.]

An Act to confer certain exemptions on members of legislative bodies constituted under the Government of India Act.

WHEREAS it is expedient to exempt members of any legislative body constituted under the Government of India Act from liability to serve as jurors or assessors and from arrest and detention in prison under civil process at the time of meeting of such body or of a committee thereof; It is hereby enacted as follows :—

Short title and commencement. **1.** (*1*) This Act may be called the Legislative Members Exemption Act, 1925.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 180.

(2) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, appoint

V of 1898 — Amendment of section 320, Act V of 1898.

2. After clause (a) of section 320 of the Code of Criminal Procedure, 1898, the following clause shall be inserted, namely —

" (aa) members of either Chamber of the Indian Legislature and members of a Legislative Council constituted under the Government of India Act,"

V of 1908 — Insertion of new section 135A in Act V of 1908.

3. After section 135 of the Code of Civil Procedure, 1908, the following section shall be inserted, namely —

Exemption of members of legislative bodies from arrest and detention under civil process

" 135A (1) No person shall be liable to arrest or detention in prison under civil process—

(a) if he is a member of either Chamber of the Indian Legislature or of a Legislative Council constituted under the Government of India Act, during the continuance of any meeting of such Chamber or Council,

(b) if he is a member of any committee of such Chamber or Council, during the continuance of any meeting of such committee,

(c) if he is a member of either Chamber of the Indian Legislature, during the continuance of a joint sitting of the Chambers, or of a meeting of a conference or joint committee of the Chambers of which he is a member,

and during the fourteen days before and after such meeting or sitting

(2) A person released from detention under sub section (1) shall, subject to the provisions of the said sub section, be liable to re arrest and to the further detention to which he would have been liable if he had not been released under the provisions of sub section (1) "

ACT No XXIV of 1925 [2]

[*11th September, 1925*]

An Act to supplement certain provisions of the Sikh Gurdwaras Act, 1925

Pun Act VIII of 1925.

WHEREAS it is expedient to supplement, by legislation in the Indian Legislature, certain provisions of the Sikh Gurdwaras Act, 1925, *for* the purposes hereinafter appearing, It is hereby enacted as follows —

Short title and commencement

1. (1) This Act may be called the Sikh Gurdwaras (Supplementary) Act, 1925

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1 This Act was brought into force on the 1st January 1925, *see* Gen R. & O, Vol V, p 645

2 *For Statement of Objects and Reasons, see Gazette of India*, 1925, Pt. V, p 216

(2) It shall come into force on the date[1] appointed by the Local Government under sub-section (3) of section 1 of the Sikh Gurdwaras Act, 1925.

Validation of certain provisions of Pun. Act VIII of 1925.

2. The Sikh Gurdwaras Act, 1925 (hereinafter referred to as the said Act), shall, so far as it adds to or takes from the jurisdiction of the High Court of Judicature at Lahore or prescribes the procedure of the said Court, be as valid as if it had been passed by the Indian Legislature. Pu VI 192

Amendment of section 12, Pun. Act VIII of 1925.

3. In section 12 of the said Act,—

(*a*) in sub-section (2) after the word "president" the words "appointed by notification by the Governor General in Council" shall be inserted;

(*b*) in sub-section (4) after the words "fixed by the Local Government" the words "or in the case of the president by the Governor General in Council" shall be inserted;

(*c*) in sub-section (5) after the words "member of a tribunal" the words "other than the president" shall be inserted;

(*d*) in sub-section (6) after the word "member" the words "the Governor General in Council where the vacancy occurs in the office of president and in any other case" shall be inserted.

ACT No. XXV OF 1925.[2]

[*21st September, 1925.*]

An Act to provide for the fostering and development of the bamboo paper industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well being of the community, to provide for the fostering and development of the industry of making paper from bamboo by increasing the import duties leviable on certain kinds of paper and to determine the duties which shall be payable in respect of such paper during the next seven years; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bamboo Paper Industry (Protection) Act, 1925.

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[1] The first November 1925, *see* Punjab Gazette, 1925, Pt. I, p. 712.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 226.

VIII of 1894. 2. (*1*) In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. Amendment of Act VIII of 1894

(*2*) The amendments made by sub section (*1*) shall have effect up to the thirty-first day of March, 1932.

THE SCHEDULE

AMENDMENTS TO BE MADE IN SCHEDULE II TO THE INDIAN TARIFF ACT, 1894

(*See section 2*)

1. In Item No 99 the following words shall be deleted :—

" ruled or printed forms and account and manuscript books,",

and to that Item, the following shall be added, namely —

" and paper and stationery otherwise specified (*see* Nos 155 and 156) "

2. [1] * * *

ACT No XXVI OF 1925 [2]

[*21st September, 1925*]

An Act to amend the Law with respect to the carriage of goods by sea

WHEREAS at the International Conference on Maritime Law held at Brussels in October, 1922, the delegates at the Conference, including the delegates representing His Majesty, agreed unanimously to recommend their respective Governments to adopt as the basis of a convention a draft convention for the unification of certain rules relating to bills of lading,

AND WHEREAS at a meeting held at Brussels in Octo[illegible] [illegible], the rules contained in the said draft convention were amended [illegible] Committee appointed by the said Conference;

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[1] This item was repealed by s. 4 of the Bamboo Paper [illegible] Act, 1927 (20 of 1927)

[2] For Statement of Objects and Reasons, *see* Gazette of [illegible], p 37, and for Report of the Joint Committee, *see ibid*, p 205.

AND WHEREAS provision has been made by the Carriage of Goods by Sea Act, 1924, that the said rules as so amended and as set out with modifications in the Schedule shall, subject to the provisions of that Act, have the force of law with a view to establishing the responsibilities, liabilities, rights and immunities attaching to carriers under bills of lading;

14 and 15 Geo. 5, c. 22.

AND WHEREAS it is expedient that like provision should be made in British India; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Indian Carriage of Goods by Sea Act, 1925.

(*2*) It extends to the whole of British India.

Application of Rules.

2. Subject to the provisions of this Act, the rules set out in the Schedule (hereinafter referred to as "the Rules") shall have effect in relation to and in connection with the carriage of goods by sea in ships carrying goods from any port in British India to any other port whether in or outside British India.

Absolute warranty of seaworthiness not to be implied in contracts to which Rules apply.

3. There shall not be implied in any contract for the carriage of goods by sea to which the Rules apply any absolute undertaking by the carrier of the goods to provide a seaworthy ship.

Statement as to application of Rules to be included in bills of lading.

4. Every bill of lading, or similar document of title, issued in British India which contains or is evidence of any contract to which the Rules apply, shall contain an express statement that it is to have effect subject to the provisions of the said Rules as applied by this Act.

Modification of Article VI of Rules in relation to goods carried in sailing ships and by prescribed routes.

5. Article VI of the Rules shall, in relation to—

(*a*) the carriage of goods by sea in sailing ships carrying goods from any port in British India to any other port whether in or outside British India, and

(*b*) the carriage of goods by sea in ships carrying goods from a port in British India notified[1] in this behalf in the Gazette of India by the Governor General in Council to a port in Ceylon specified in the said notification,

have effect as though the said Article referred to goods of any class instead of to particular goods and as though the proviso to the second paragraph of the said Article were omitted.

Modification of Rules 4 and 5 of Article III in relation to bulk cargoes.

6. Where under the custom of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper and the fact that the weight is so ascertained or accepted is stated in the bill of

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[1] For such Notification, *see* Gazette of India, 1925, Pt. I, p. 950.

lading, then, notwithstanding anything in the Rules, the bill of lading shall not be deemed to be *prima facie* evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper

7. (*1*) Nothing in this Act shall affect the operation of sections four hundred and forty six to four hundred and fifty, both inclusive, five hundred and two, and five hundred and three of the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or the operation of any other enactment for the time being in force limiting the liability of the owners of seagoing vessels Saving and operation. 57 and 58 Vict., c 60

(*2*) The Rules shall not by virtue of this Act apply to any contract for the carriage of goods by sea before such day,[1] not being earlier than the first day of January, 1926 as the Governor General in Council may, by notification in the Gazette of India, appoint, nor to any bill of lading or similar document of title issued, whether before or after such day as aforesaid, in pursuance of any such contract as aforesaid

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SCHEDULE

RULES RELATING TO BILLS OF LADING

ARTICLE I

Definitions

In these Rules the following expressions have the meanings hereby assigned to them respectively, that is to say—

(*a*) "Carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper

(*b*) "Contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same

(*c*) "Goods" includes goods, wares, merchandises, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried

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[1] For Notification appointing such day as the 1st of January, 1926 see Gazette of India 1925 Pt I p. 940.

(*d*) "Ship" means any vessel used for the carriage of goods by sea:

(*e*) "Carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship.

Article II.

Risks.

Subject to the provisions of Article VI, under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods, shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.

Article III.

Responsibilities and Liabilities.

1. The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to—

(*a*) make the ship seaworthy:

(*b*) properly man, equip, and supply the ship:

(*c*) make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.

2. Subject to the provisions of Article IV, the carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.

3. After receiving the goods into his charge, the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things—

(*a*) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage.

(*b*) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper:

(*c*) The apparent order and condition of the goods:

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking

4 Such a bill of lading shall be *primâ facie* evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3 (*a*), (*b*) and (*c*)

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper

6 Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, or, if the loss or damage be not apparent, within three days, such removal shall be *primâ facie* evidence of the delivery by the carrier of the goods as described in the bill of lading

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered

In the case of any actual or apprehended loss or damage, the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods

7 After the goods are loaded the bill of lading to be issued by the carrier, master or agent of the carrier, to the shipper shall, if the shipper so demands, be a "shipped" bill of lading, provided that, if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier, such document of title may be noted at the port of shipment by the carrier, master, or agent

with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this Article be deemed to constitute a "shipped" bill of lading.

8. Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with goods arising from negligence, fault or failure in the duties and obligations provided in this Article or lessening such liability otherwise than as provided in these Rules, shall be null and void and of no effect.

A benefit of insurance or similar clause shall be deemed to be a clause relieving the carrier from liability.

ARTICLE IV.

Rights and Immunities.

1. Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped and supplied, and to make the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation in accordance with the provisions of paragraph 1 of Article III.

Whenever loss or damage has resulted from unseaworthiness the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this section.

2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

(*a*) act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship:

(*b*) fire, unless caused by the actual fault or privity of the carrier:

(c) perils, dangers and accidents of the sea or other navigable waters:

(*d*) act of God:

(*e*) act of war:

(*f*) act of public enemies:

(g) arrest or restraint of princes, rulers or people, or seizure under legal process:

(h) quarantine restriction:

(i) act or omission of the shipper or owner of the goods, his agent, or representative:

(j) strikes or lock outs or stoppage or restraint of labour from whatever cause, whether partial or general

(k) riots and civil commotions

(l) saving or attempting to save life or property at sea

(m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods

(n) insufficiency of packing

(o) insufficiency or inadequacy of marks

(p) latent defects not discoverable by due diligence

(q) any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

3 The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault or neglect of the shipper, his agents or his servants

4 Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom

5 Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding 100l per package or unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.

This declaration if embodied in the bill of lading shall be *prima facie* evidence, but shall not be binding or conclusive on the carrier

By agreement between the carrier, master or agent of the carrier and the shipper another maximum amount than that mentioned in this paragraph may be fixed, provided that such maximum shall not be less than the figure above named

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with goods if the nature or value thereof has been knowingly mis-stated by the shipper in the bill of lading.

6. Goods of an inflammable, explosive or dangerous nature to the shipment whereof the carrier, master or agent of the carrier, has not consented, with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly, arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

Article V.

Surrender of Rights and Immunities, and Increase of Responsibilities and Liabilities.

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under the Rules contained in any of these Articles, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of these Rules shall not be applicable to charter-parties, but if bills of lading are issued in the case of a ship under a charterparty they shall comply with the terms of these Rules. Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

Article VI.

Special Conditions.

Notwithstanding the provisions of the preceding Articles, a carrier, master or agent of the carrier, and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms

as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this stipulation is not contrary to public policy, or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care, and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non negotiable document and shall be marked as such

Any agreement so entered into shall have full legal effect

Provided that this Article shall not apply to ordinary commercial shipment made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed, are such as reasonably to justify a special agreement.

Article VII

Limitations on the Application of the Rules

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea

Article VIII

Limitation of liability

The provisions of these Rules shall not affect the rights and obligations of the carrier under any Statute for the time being in force relating to the limitation of the liability of owners of sea-going vessels

Article IX

The monetary units mentioned in these Rules are to be taken to be gold value

(3) Unless the Governor General in Council, after consideration of any recommendation made by the Local Government in this behalf, otherwise directs, the Collector shall be Deputy Agent for his district

(4) The Governor General in Council may by rule prescribe the powers and duties of officers appointed under this section "

2 In sections 4, 5, 8, 12, 13 and 15, for the words " the Board of Revenue " the word " Government " shall be substituted

3 For section 6 the following section shall be substituted, namely —

" 6 Government may take upon itself, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which Government or an Agent, or any other officer subordinate to Government, may be engaged, instead of leaving such superintendence to the Agent or any other officer " **Power of Government to appoint officer to conduct suits**

4 In section 7,—

(a) the words " The Board of Revenue with the sanction of " shall be omitted,

(b) for the words " With the like sanction they " the word " Government " shall be substituted, and

(c) in the last paragraph, for the words " the Board of Revenue " the word " Government " shall be substituted

5 In sections 8, 9, 10, 11, 12, 18, 21, 23 and 26, for the words " Sub deputy Agents " and " Sub deputy Agent " the words " district opium officers " and " district opium officer " respectively, shall be substituted

6 In section 11, for the words " other district officers " the words " other officers duly authorised to receive such opium " and for the words " of the district " the word " other " shall be substituted

7 In section 12, for the words " other district officer " the words " other officer authorised as aforesaid ", and for the words " district officer ", where they occur in the second paragraph, the words " receiving officer " shall be substituted

8 In sections 13 and 14, for the word " district " the word " receiving " shall be substituted

9 In section 15,—

(a) for the words " district officer " the words " district opium officer ", and

(*b*) in the third paragraph, for the words " the Board " the word " Government "

shall be substituted.

10. In section 16, for the words " district officers " the words " district opium officers or other officers duly authorised in this behalf ", and for the words " district officer " where they occur in two places the words " adjusting officer " shall be substituted.

11. In section 18, for the words "other district officer on his behalf" the words " other officer duly authorised in this behalf " shall be substituted.

12. In section 22, for the words " sub-deputies " the words " the district opium officers " shall be substituted.

13. In section 30, for the words " Board of Revenue " the words " Opium Agent " and for the word " them " the word " him " shall be substituted.

14. In section 31, for the words " Sub-deputy Opium Agent " the words " district opium officer " shall be substituted.

15. After section 31, the following section shall be added, namely :—

Meaning of "Government." " 32. In this Act, except in section 23, where the word occurs for the first time, and in section 29, ' Government ' means ' the Government of India '."

ACT No. XXVIII of 1925.[1]

[*21st September, 1925.*]

An Act to amend the Provident Funds Act, 1925.

Whereas it is expedient to amend the Provident Funds Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows :— XIX of 1925.

Short title and commencement. 1. (*1*) This Act may be called the Provident Funds (Amendment) Act, 1925.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 219.

2 This Act was brought into force on the 1st April, 1926, *see* Gen. R. & O., Vol. V, p. 641.

The Act has been declared in force in the Angul District under section 5 of the Angul Laws Regulation, 1913 (3 of 1913), *see* Notification No. 2361 P. R., dated 3rd August, 1927, B. and O. Gazette, 1927, Pt. II, p. 942.

2. In clause (*b*) of section 2 of the Provident Funds Act, 1925 (hereinafter referred to as the *said Act*), for the words "the authority by which the Fund has been constituted" the words "any authority administering the Fund" shall be substituted. Amendment of section 2, Act XIX of 1925.

3. In section 6 of the said Act,— Amendment of section 6, Act XIX of 1925.

(*a*) for the words "by which the Fund has been constituted" the words "specified in this behalf in the rules of the Fund",

(*b*) for the words "that authority", where they occur for the first time, the words "Government or the Railway administration, as the case may be",

(*c*) in clause (*a*), for the words "that authority" the words "Government or the Railway administration", and

(*d*) in clause (*b*), for the words "the employment of that authority" the words "his employment"

shall be substituted.

ACT No. XXIX OF 1925 [1]

[*23rd September, 1925.*]

An Act further to amend the Indian Penal Code.

WHEREAS it is expedient further to amend the Indian Penal Code; It is hereby enacted as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Act, 1925. Short title.

2. In section 375 of the Indian Penal Code (hereinafter referred to as the said Code), in clause *Fifthly* for the word "twelve" the word "fourteen" shall be substituted, and in the *Exception* for the word "twelve" the word "thirteen" shall be substituted. Amendment of section 375, Act XLV of 1860.

3. To section 376 of the said Code the following shall be added, namely:— Amendment of section 376, Act XLV of 1860.

"unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

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1 For Statement of Objects and Reasons, see Gazette of India, 1925, Pt. V, p. 178.

Sexual intercourse not rape in certain circumstances.

4. Notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife is not rape although the wife has not attained the age of thirteen years, if he was married to her before the date on which this Act comes into operation and she had attained the age of twelve years on that date.

Amendment of Schedule II, Act V of 1898.

5. In Schedule II to the Code of Criminal Procedure, 1898, for the entries against section 376 the following entries shall be substituted, namely :— V of 1898.

"*Of Rape.*

376	Rape If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Chief Presidency Magistrate or District Magistrate.
	If the sexual intercourse was by a man with his own wife being under 12 years of age.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	In any other case.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

ACT No. XXX OF 1925.[1]

[*23rd September, 1925.*]

An Act further to amend the Indian Limitation Act, 1908.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows :— IX of 1908.

Short title and commencement.

1. (*1*) This Act may be called the Indian Limitation (Amendment) Act, 1925.

(*2*) It shall come into force on the first day of April, 1926.

Amendment of Article 5 of First Schedule to Act IX of 1908.

2. In the First Division of the First Schedule to the Indian Limitation Act, 1908 (hereinafter called the said Act),— IX of 1908.

(*a*) after Article 4 the heading "*Part IV.—One year*" shall be inserted;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 181, and for Report of Select Committee, *see ibid*, p. 222.

(b) in Article 5—

(i) to the entry in the first column the following shall be added, namely —

" where the provision of such summary procedure does not exclude the ordinary procedure in such suits and under Order XXXVII of the said Code ",

(ii) for the entry in the second column the entry " One year " shall be substituted, and

(c) the heading "*Part IV —One year*" after Article 5 shall be omitted

Amendment of Article 159 of First Schedule to Act IX of 1908

3. In the Third Division of the First Schedule to the said Act, in the entry in the first column of Article 159, after the figures and letter " 128 (2) (f) " the words and figures " or under Order XXXVII " shall be inserted

ACT No XXXI OF 1925 [1]

[*23rd September, 1925*]

An Act to provide for the grading of coal and for the grant of certificates for coal intended for export.

WHEREAS it is expedient to provide for the grading of coal and for the grant of certificates for coal intended for export, It is hereby enacted as follows —

Short title and extent.

1. (1) This Act may be called the Coal Grading Board Act, 1925.

(2) It extends to the whole of British India

Definitions.

2 In this Act, unless there is anything repugnant in the subject or context,—

(a) " Board " means the Coal Grading Board constituted under section 3,

(b) " export " means the shipment of coal as cargo from a port in British India,

(c) " graded colliery " means a colliery the grade of all or any of the seams or of a part of any seam of which has been determined under the provisions of section 4 and is entered in the grade list maintained in accordance with the provisions of section 5,

(d) " prescribed " means prescribed by rules made under this Act; and

[1] For Statement of Objects and Reasons *see* Gazette of India 1925, Pt. V, p 181, and for Report of Select Committee, *see ibid*, p 210

(e) "secretary" means the secretary of the Board appointed under sub-section (4) of section 3.

Constitution of Coal Grading Board.

3. (1) As soon as may be after the commencement of this Act, the Governor General in Council shall cause to be constituted a Board[1] consisting of the following members, namely:—

(a) the Chief Mining Engineer to the Railway Board; and

(b) four persons nominated respectively by the Indian Mining Association, the Indian Mining Federation, the Bengal Chamber of Commerce and the Bengal National Chamber of Commerce:

Provided that, if within the period prescribed in this behalf any such body fails to make any nomination which it is entitled to make under this sub-section, the Governor General in Council may himself appoint a member or members, as the case may be, to fill the vacancy or vacancies.

(2) The Board so constituted shall be a body corporate by the name of the Coal Grading Board, having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract and shall by the said name sue and be sued.

(3) The Chief Mining Engineer to the Railway Board shall be *ex-officio* President of the Board.

(4) The secretary of the Board shall be a person, not being a member of the Board, appointed by the Board.

Power to grade collieries, to revise grading and to grant certificates.

4. (1) On the application of any colliery and on payment of the prescribed fee, the Board shall, in such manner as may be prescribed, determine the grade of coal of all or any of the seams or of a part of a seam of such colliery, and shall by notice in writing inform the colliery of the grade so determined.

(2) The colliery may, within thirty days from the receipt of the said notice, lodge with the Board an objection to the order passed under sub-section (1) determining the grade of any coal, and the Board shall, on payment of the prescribed fee and after further inspection and analysis, decide such objection, the decision of the Board shall be final and shall not be questioned in any Court.

(3) Where the grade of any coal has been determined under the provisions of this section, the Board shall, on the request of the colliery furnish a certificate in the prescribed form, specifying the grade of such coal.

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[1] For constitution of the Board, *see* Notification No. 47-T. (57), dated 20th January 1926, Gazette of India, 1926, Pt. I, p. 148.

5. (*1*) The Board shall maintain a grade list, in such form and containing such particulars as may be prescribed, of coal the grade of which has been determined in accordance with the provisions of section 4, but shall not enter in such list any coal in respect of which the colliery has, after the determination or decision of the Board under sub section (*1*) or sub section (*2*) of section 4, given notice in writing that such coal should not be entered in the grade list — Maintenance and publication of grade list

(*2*) The grade list shall be published in such manner as may be prescribed

6 (*1*) On the application of any graded colliery desiring to export coal and on payment of the prescribed fee, the Board shall, if it is satisfied after such inspection as it may deem necessary with the quality and condition of the coal, grant a certificate of shipment in the prescribed form — Grant of export certificate

(*2*) Such fee shall not exceed one anna per ton of coal

7 Any member of the Board and any person authorised in this behalf by the Board may, for the purposes of this Act, enter at any time in and upon any colliery, storage bin truck, vehicle vessel or other place where there is coal and inspect, test and take sample of such coal — Powers of inspection.

8 Notwithstanding anything to the contrary in any law for the time being in force, a rebate of any charges including freight, fees, tolls, dues or rates, may be granted in respect of coal of which a certificate of shipment has been granted under the provisions of section 6, and, subject to such restrictions as may be prescribed, preference may be given in the supply of wagons for forwarding coal for export from a graded colliery — Grant of rebate and preferences.

9. Subject to such conditions as may be prescribed, the proceeds of fees received by the Board shall be applied to meeting the expenses of the Board — Application of fees

10 No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board — Validity of acts of Board

11 No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act — Protection for acts done under Act.

12 (*1*) The Governor General in Council may, after previous publication, by notification in the Gazette of India, make rules[1] for the purpose of carrying into effect all or any of the purposes of this Act — Power of the Governor General in Council to make rules

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following —

[1] For such rules, see Gen R & O, Vol. V, p 647.

matters, namely :—

(*a*) for prescribing the time within which nominations shall be made under section 3, whether in the first instance or on the occurrence of vacancies;

(*b*) for prescribing the term of office of members of the Board;

(*c*) for prescribing the circumstances in which and the authority by which any member may be removed from the Board;

(*d*) for regulating the appointment of officers of, and the keeping and publication of accounts by, the Board;

(*e*) for prescribing the procedure on application under section 4 and the principles for grading coal;

(*f*) for prescribing the form of and particulars to be entered in and manner of publication of the grade list;

(*g*) for prescribing the procedure of the Board in deciding any objection lodged against any order passed under section 4 determining the grade of any coal;

(*h*) for prescribing the form of certificate to be granted under section 6 and the procedure on application under that section;

(*i*) for prescribing the restrictions subject to which preference may be given under section 8;

(*j*) for prescribing the fees for any inspection or analysis required for the purposes of this Act or payable under any of the provisions of this Act; and

(*k*) for prescribing the remuneration of members and regulating the expenditure of the Board.

ACT No. XXXII OF 1925.[1]

[*23rd September, 1925.*]

An Act to supplement the Oudh Courts Act, 1925.

WHEREAS it is expedient to supplement the Oudh Courts Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows :— U. P. Act IV of 1925

Short title and commencement.

1. (*1*) This Act may be called the Oudh Courts (Supplementary) Act, 1925.

(*2*) It shall come into force on the date[2] directed by the Governor General in Council under sub-section (*3*) of section 1 of the Oudh Courts Act, 1925. U. P. Act IV of 1925

Amendment of certain enactments.

2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 190.
[2] The 2nd November 1925, *see* Gazette of India, 1925, Pt. I, p. 882.

THE SCHEDULE.

ENACTMENTS AMENDED.

(See section 2.)

Year	No	Short title	Amendment
1866	XXVII	The Indian Trustees Act, 1866	In the definition of High Court in section 2 after "cap 104" the words "and also the Chief Court of Oudh" shall be inserted
1866	XXVIII	The Trustees' and Mortgagers' Powers Act, 1866	In the definition of High Court in section 1 after "c 104" the words "and includes the Chief Court of Oudh" shall be inserted
1869	IV	The Indian Divorce Act, 1869	(1) In clause (1) of section 3 after the word "Rangoon" the words "in Oudh—the Chief Court of Oudh" shall be inserted
			(2) In clause (2) of section 3 after the words "Regulation provinces" the words "and in Oudh" shall be inserted, and after the words "other than" the word "Oudh" shall be inserted
1875	XVIII	The Indian Law Reports Act, 1875	(1) In the preamble after the word and figures "chapter 104" the words "and by the Chief Court of Oudh" shall be inserted
			(2) In section 3 after the words "High Courts" the words "or by the Chief Court of Oudh" shall be inserted
1879	XVIII	The Legal Practitioners Act, 1879.	In sub section (4) of section 41 after the word "and" the words "except in the case of the Chief Court of Oudh" shall be inserted
1890	IX	The Indian Railways Act, 1890	In sub section (3) of section 26 after the words "Chief Justice" the words "or in the case of the Chief Court of Oudh, the Chief Judge" shall be inserted
1898	V	The Code of Criminal Procedure, 1898	(1) In clause (j) of sub section (1) of section 4 after the word "Rangoon" the words "the Chief Court of Oudh" shall be inserted, and the word "Oudh" after the word "Provinces" shall be omitted
			(2) In section 266 after the word "includes" the words "the Chief Court of Oudh" shall be inserted, and the word "Oudh" after the word "Provinces" shall be omitted.
			(3) In sub section (1) of section 364 after the word "Charter" the words "or the Chief Court of Oudh" shall be inserted.
			(4) In section 365 after the word "Charter" the words "and the Chief Court of Oudh" shall be inserted

Year.	No.	Short title.	Amendment.
1899	II	The Indian Stamp Act, 1899.	For clause (*b*) of sub-section (*1*) of section 57 the following shall be substituted, namely :— "(*b*) (*i*) if it arises in Agra or in Ajmer—to the High Court of Judicature at Allahabad; (*ii*) if it arises in Oudh—to the Chief Court of Oudh.".
1908	V	The Code of Civil Procedure, 1908.	(*1*) In section 122 after the figures "1915" the words "and the Chief Court of Oudh" shall be inserted. (*2*) In sub-section (*1*) of section 123 after the words "High Courts" the words "and of the Chief Court" shall be inserted.

ACT No. XXXIII of 1925.[1]

[23rd September, 1925.]

An Act to amend the Criminal Tribes Act, 1924.

WHEREAS it is expedient to amend the Criminal Tribes Act, 1924, for the purposes hereinafter appearing; It is hereby enacted as follows :— VI of 1924.

Short title.

1. This Act may be called the Criminal Tribes (Amendment) Act, 1925.

Amendment of section 10, Act VI of 1924.

2. Section 10 of the Criminal Tribes Act, 1924, shall be re-numbered sub-section (*1*) of section 10, and to the said section the following sub-sections shall be added, namely :— VI of 1924.

"(*2*) Where a registered member of a criminal tribe in respect of which the Local Government has issued a notification under sub-section (*1*) changes his place of residence to a district other than that in which he has been registered (whether in the same province or not), or is for the time being in a district of a province other than that by the Local Government of which the said notification was issued, the provisions of this Act and of the rules made thereunder shall apply to him as if in pursuance of a direction made under section 4 he had been registered in that district; and where that district is in a province other than that by the Local Government of which the notifications

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 191.

under section 3 and sub section (*1*) of this section were issued in respect of such criminal tribe, as if the said notifications had been issued by the Local Government of such other province

(*3*) Where any such registered member changes his place of residence to a district other than that in which he has been registered (whether in the same province or not), the relevant entry in the register shall be transferred to the Superintendent of Police of that district "

ACT No XXXIV of 1925 [1]

[23rd September, 1925]

An Act to amend the Cotton Transport Act, 1923.

23. WHEREAS it is expedient to amend the Cotton Transport Act, 1923, for the purpose hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Cotton Transport (Amendment) Act, 1925 — Short title.

23. **2.** In clause (*g*) of section 2 of the Cotton Transport Act, 1923 (hereinafter referred to as the said Act), after the word " prohibited " the words " wholly or partly " shall be inserted — Amendment of section 2, Act III of 1923

3 In section 3 of the said Act, in sub section (*1*) after the words " into that area " the words " by rail, road, river and sea, or by any one or more of such routes ", and in sub section (*2*) after the words " import of which " and the words " for the import " the words " by rail " shall be inserted — Amendment of section 3, Act III of 1923

4 In section 4 of the said Act, in sub section (*1*) after the words " import of the cotton " and in sub section (*3*) after the words " the import " the words " by rail " shall be inserted — Amendment of section 4, Act III of 1923

5. In sub section (*1*) of section 5 of the said Act, after the words " import of which " and the words " import of the cotton " the words " by rail " shall be inserted — Amendment of section 5, Act III of 1923

6. In clause (*a*) of sub section (*1*) of section 7 of the said Act, after the word " prohibited " the words " wholly or partly " shall be inserted — Amendment of section 7, Act III of 1923

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt V, p 192

ACT No. XXXV OF 1925.[1]

[*23rd September, 1925.*]

An Act to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924.

WHEREAS it is expedient to supplement by legislation in the Indian Legislature certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924, for the purpose hereinafter appearing; It is hereby enacted as follows:— Mad. Act IV of 1920. Ben. Act II of 1922. Bom. Act XIII of 1924.

Short title. **1.** This Act may be called the Madras, Bengal and Bombay Children (Supplementary) Act, 1925.

Validation of certain provisions of Madras Children Act, 1920, Bengal Children Act, 1922, and Bombay Children Act, 1924. **2.** The Madras Children Act, 1920, the Bengal Children Act, 1922, and the Bombay Children Act, 1924, shall, so far as regards the appellate and revisional jurisdiction conferred by the said Acts on the High Courts of Judicature at Madras, at Fort William in Bengal and at Bombay, respectively, be as valid as if the said Acts had been passed by the Indian Legislature. Mad. Act IV of 1920. Ben. Act II of 1922. Bom. Act XIII of 1924.

ACT No. XXXVI OF 1925.[2]

[*23rd September, 1925.*]

An Act further to amend the Indian Ports Act, 1908.

WHEREAS it is expedient further to amend the Indian Ports Act, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:— XV of 1908.

Short title. **1.** This Act may be called the Indian Ports (Amendment) Act, 1925.

Amendment of section 31, Act XV of 1908. **2.** (*1*) To sub-section (*1*) of section 31 of the Indian Ports Act, 1908, the following proviso shall be added, namely:— XV of 1908.

"Provided that the Governor General in Council may, by notification in the Gazette of India, direct that in any port specified in such notification the provisions of this sub-section shall not apply to sailing vessels of any measurement not exceeding a measurement so specified."

[3]* * * * * *

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[1] For Statement of Objects and Reasons, *see* Gazette of India 1925, Pt. V, p. 195.
[2] For Statement of Objects and Reasons, *see* Gazette of India 1925, Pt. V, p. 196.
[3] Sub-section (*2*) was repealed by the Repealing Act, 1927 (12 of 1927).

ACT No XXXVII OF 1925 [1]

[23rd September, 1925]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

AND WHEREAS it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed,

It is hereby enacted as follows —

1. This Act may be called the Repealing and Amending Act, 1925 *Short title.*

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof *Amendment of certain enactments.*

3. [*Repeal of certain enactments*] *Repealed by the Repealing Act, 1927 (12 of 1927)*

4. [*Savings*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

THE FIRST SCHEDULE

AMENDMENTS.

(See section 2)

Year	No	Short title	Amendments
1882	II	The Indian Trusts Act, 1882	In section 20 clause (c) for the word "Central" the word "Provincial" shall be substituted.
1898	XIII	The Burma Laws Act, 1898	In the First Schedule in the entry relating to the [illegible]

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 194

The Act, so far as it relates to the Indian Trusts Act and the amending Act of the Code of Civil Procedure, has been extended to the district of Ajmer Merwara by s 5 of Act 14 of 1874, *see* Notification No 65 C 1169, dated 25th August, 1926, Gazette of India, 1926, Pt. II A, p 324

Year.	No.	Short title.	Amendments.
1910	IX	The Indian Electricity Act, 1910.	In section 3, sub-section (*2*), clause (*a*), sub-clause (*ii*), for the words "Director of Military Works" the words "Engineer-in-Chief, Army Headquarters, India" shall be substituted.
1923	IV	The Indian Mines Act, 1923.	(1) In section 9, sub-section (*2*), for the words "in the manner provided by section 4 of the Indian Official Secrets Act, 1889" the words "with imprisonment for a term which may extend to one year, or with fine, or with both" shall be substituted.
			(2) In section 13, for the words "owner, agent or manager" the words "owner or agent" shall be substituted.
			(3) In section 30, clause (*g*), after the word "Act" the words "and of the regulations and rules" shall be inserted, and the words "the regulations, rules and" shall be omitted.
1923	VIII	The Workmen's Compensation Act, 1923.	In section 22, sub-section (*2*), clause (*d*), for the word "on" where it occurs for the second time the word "of" shall be substituted.
1923	XXIX	The Code of Civil Procedure (Amendment) Act, 1923.	In section 1, for the word and brackets "(Amendment)" the words and brackets "(Second Amendment)" shall be substituted.

[THE SECOND SCHEDULE.]

[Repeals.] Repealed by the Repealing Act, 1927 (12 of 1927).

ACT No. XXXVIII OF 1925.[1]

[23rd September, 1925.]

An Act further to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient further to amend the Transfer of Property Act, 1882, for the purpose hereinafter appearing; It is hereby enacted as follows:— IV of 1882.

Short title.

1. This Act may be called the Transfer of Property (Amendment) Act, 1925.

Amendment of section 130, Act IV of 1882.

2. In sub-section (*1*) of section 130 of the Transfer of Property Act, 1882, after the words "authorised agent and" the words and figures "notwithstanding anything contained in section 123" shall be inserted. IV of 1882.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 223.

THE INDIAN SUCCESSION ACT, 1925.

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ACT No XXXIX of 1925.[1]

[*30th September, 1925*]

An Act to consolidate the law applicable to intestate and testamentary succession in British India.

WHEREAS it is expedient to consolidate the law applicable to intestate and testamentary succession in British India, It is hereby enacted as follows :—

PART I.

Preliminary.

1. This Act may be called the Indian Succession Act,[2] 1925. **Short title.**

2. In this Act, unless there is anything repugnant in the subject or context,— **Definitions.**

(a) "administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor,

(b) "codicil" means an instrument made in relation to a will, and explaining, altering or adding to its dispositions, and shall be deemed to form part of the will;

(c) "executor" means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided;

(d) "Indian Christian" means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion,

(e) "minor" means any person subject to the Indian Majority Act, 1875, who has not attained his majority within the meaning of that Act, and any other person who has not completed the age of eighteen years, and "minority" means the status of any such person; 1875.

(f) "probate" means the copy of a will certified under the seal of a Court of competent jurisdiction with a grant of administration to the estate of the testator;

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt V, p 401 and for Report of Joint Committee, *see* Gazette of India, 1925, Pt. V, p 103.

2 The Act has been extended under the Scheduled Districts Act, 1874, to British Baluchistan, *see* Gazette of India 1925, Pt II A, p 353

The Act has been extended subject to certain modifications to (1) those areas in the Federated Shan States which have been or may hereafter be notified under s 210 of the Burma Municipal Act 1898, (2) the area of Nartu in the Northern Shan States within certain limits and (3) the civil station of Loimwe in the Southern Shan States; *see* Notification No 21, dated 8th March 1927, Burma Gazette, 1927, Pt. I, p 256

(*Part II.—Of Domicile.*)

6. A person can have only one domicile for the purpose of the succession to his moveable property

One domicile only affects succession to moveables

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death

Domicile of origin of person of legitimate birth

Illustration

At the time of the birth of A, his father was domiciled in England A's domicile of origin is in England, whatever may be the country in which he was born

8. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled

Domicile of origin of illegitimate child

9. The domicile of origin prevails until a new domicile has been acquired

Continuance of domicile of origin.

10. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin

Acquisition of new domicile.

Explanation—A man is not to be deemed to have taken up his fixed habitation in British India merely by reason of his residing there in His Majesty's civil, [1][military or air force] service or in the exercise of any profession or calling

Illustrations

(i) A whose domicile of origin is in England proceeds to British India, where he settles as a barrister or a merchant intending to reside there during the remainder of his life His domicile is now in British India

(ii) A, whose domicile is in England goes to Austria and enters the Austrian service, intending to remain in that service A has acquired a domicile in Austria

(iii) A, whose domicile of origin is in France comes to reside in British India under an engagement with the Government of India for a certain number of years It is his intention to return to France at the end of that period He does not acquire a domicile in British India

(iv) A, whose domicile is in England goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved and with the intention of returning to England as soon as that purpose is accomplished He does not by such residence acquire a domicile in British India, however long the residence may last

(v) A having gone to reside in British India in the circumstances mentioned in the last preceding illustration, afterwards alters his intention and takes up his fixed habitation in British India A has acquired a domicile in British India

(vi) A, whose domicile is in the French Settlement of Chandernagore is compelled by political events to take refuge in Calcutta and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore He does not by such residence acquire a domicile in British India.

[1] These words were substituted by s 2 and Sch I of the Repealing and Amending Act, 1927 (10 of 1927)

(vii) A, having come to Calcutta in the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

Special mode of acquiring domicile in British India.

11. Any person may acquire a domicile in British India by making and depositing in some office in British India, appointed in this behalf by the Local Government, a declaration in writing under his hand of his desire to acquire such domicile; provided that he has been resident in British India for one year immediately preceding the time of his making such declaration.

Domicile not acquired by residence as representative of foreign Government, or as part of his family.

12. A person who is appointed by the Government of one country *to be its ambassador, consul or other representative in another country* does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with such first-mentioned person as part of his family, or as a servant.

Continuance of new domicile.

13. A new domicile continues until the former domicile has been resumed or another has been acquired.

Minor's domicile.

14. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of His Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by woman on marriage.

15. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

16. A wife's domicile during her marriage follows the domicile of her husband.

Exception.—The wife's domicile no longer follows that of her husband if they are separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Minor's acquisition of new domicile.

17. Save as hereinbefore otherwise provided in this Part, a person cannot, during minority, acquire a new domicile.

Lunatic's acquisition of new domicile.

18. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to moveable property in British India in absence of proof of domicile elsewhere.

19. If a person dies leaving moveable property in British India, in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

PART III.

Marriage.

20. (*1*) No person shall, by marriage, acquire any interest in the property of the person whom he or she marries or become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried. *Interests and powers not acquired nor lost by marriage*

(*2*) This section—

(*a*) shall not apply to any marriage contracted before the first day of January, 1866,

(*b*) shall not apply, and shall be deemed never to have applied, to any marriage one or both of the parties to which professed at the time of the marriage the Hindu, Muhammadan, Buddhist, Sikh or Jaina religion.

21. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage. *Effect of marriage between person domiciled and one not domiciled in British India*

22. (*1*) The property of a minor may be settled in contemplation of marriage, provided the settlement is made by the minor with the approbation of the minor's father, or, if the father is dead or absent from British India, with the approbation of the High Court. *Settlement of minor's property in contemplation of marriage*

(*2*) Nothing in this section or in section 21 shall apply to any will made or intestacy occurring before the first day of January, 1866, or to intestate or testamentary succession to the property of any Hindu, Muhammadan, Buddhist, Sikh or Jaina.

PART IV.

Of Consanguinity.

23. Nothing in this Part shall apply to any will made or intestacy occurring before the first day of January, 1866, or to intestate or testamentary succession to the property of any Hindu, Muhammadan, Buddhist, Sikh, Jaina or Parsi. *Application of Part.*

24. Kindred or consanguinity is the connection or relation of persons descended from the same stock or common ancestor. *Kindred or consanguinity.*

(Part IV.—Of Consanguinity.)

Lineal consanguinity.

25. *(1)* Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather and great-grandfather, and so upwards in the direct ascending line; or between a man and his son, grandson, great-grandson and so downwards in the direct descending line.

(2) Every generation constitutes a degree, either ascending or descending.

(3) A person's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third degree, and so on.

Collateral consanguinity.

26. *(1)* Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other.

(2) For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is necessary to reckon upwards from the person deceased to the common stock and then downwards to the collateral relative, a degree being allowed for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to deceased.

27. For the purpose of succession, there is no distinction—

(*a*) between those who are related to a person deceased through his father, and those who are related to him through his mother; or

(*b*) between those who are related to a person deceased by the full blood, and those who are related to him by the half blood; or

(*c*) between those who were actually born in the lifetime of a person deceased and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing of degrees of kindred.

28. Degrees of kindred are computed in the manner set forth in the table of kindred set out in Schedule I.

Illustrations.

(*i*) The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor, the grandfather; and from him one of descent to the uncle, and another to the cousin-german, making in all four degrees.

(*ii*) A grandson of the brother and a son of the uncle, *i.e.*, a great-nephew and a cousin-german, are in equal degree being each four degrees removed.

(*iii*) A grandson of a cousin-german is in the same degree as the grandson of a great-uncle, for they are both in the sixth degree of kindred.

PART V

Intestate Succession

CHAPTER I

PRELIMINARY

29 (*1*) This Part shall not apply to any intestacy occurring before the first day of January, 1866 or to the property of any Hindu, Muhammadan, Buddhist, Sikh or Jaina — Application of Part

(*2*) Save as provided in sub section (*1*) or by any other law for the time being in force, the provisions of this Part shall constitute the law of British India in all cases of intestacy

30 A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect — As to what property deceased considered to have died intestate

Illustrations

(*i*) A has left no will He has died intestate in respect of the whole of his property

(*ii*) A has left a will whereby he has appointed B his executor but the will contains no other provisions. A has died intestate in respect of the distribution of the property

(*iii*) A has bequeathed his whole property for an illegal purpose A has died intestate in respect of the distribution of his property

(*iv*) A has bequeathed 1 000 rupees to B and 1 000 rupees to the eldest son of C and has made no other bequest and has died leaving the sum of 2 000 rupees and no other property C died before A without having ever had a son A has died intestate in respect of the distribution of 1 000 rupees

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CHAPTER II

RULES IN CASES OF INTESTATES OTHER THAN PARSIS

31. Nothing in this Chapter shall apply to Parsis — Chapter not to apply to Parsis.

32 The property of an intestate devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules hereinafter contained in this Chapter — Devolution of such property

Explanation —A widow is not entitled to the provision hereby made for her if, by a valid contract made before her marriage, she has been excluded from her distributive share of her husband's estate

(*Part V.—Intestate Succession.*)

Where intestate has left widow and lineal descendants, or widow and kindred only, or widow and no kindred.

33. Where the intestate has left a widow—

(*a*) if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules hereinafter contained;

(*b*) [1][save as provided by section 33A], if he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules hereinafter contained;

(*c*) if he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Special provision where intestate has left widow and no lineal descendants.

[2][**33A.** (*1*) Where the intestate has left a widow but no lineal descendants and the nett value of his property does not exceed five thousand rupees, the whole of his property shall belong to the widow.

(*2*) Where the nett value of the property exceeds the sum of five thousand rupees, the widow shall be entitled to five thousand rupees thereof and shall have a charge upon the whole of such property for such sum of five thousand rupees, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment.

(*3*) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the estate of such intestate remaining after payment of the said sum of five thousand rupees, with interest as aforesaid, and such residue shall be distributed in accordance with the provisions of section 33 as if it were the whole of such intestate's property.

(*4*) The nett value of the property shall be ascertained by deducting from the gross value thereof all debts, and all funeral and administration expenses of the intestate, and all other lawful liabilities and charges to which the property shall be subject.

(*5*) This section shall not apply—

(*a*) to the property of—

(i) any Indian Christian,

(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or

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[1] These words were inserted by s. 2 of the Indian Succession (Amendment) Act, 1926 (40 of 1926).

[2] This section was inserted by s. 3, *ibid.*

(*Part V —Intestate Succession*)

(iii) any person professing the Hindu, Buddhist, Sikh or Jaina religion the succession to whose property is, under section 21 of the Special Marriage Act, 1872, regulated by the provisions of this Act, (I of 1872)

(b) unless the deceased dies intestate in respect of all his property]

34. Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules hereinafter contained, and, if he has left none who are of kindred to him, it shall go to the Crown. *Where intestate has left no widow, and where he has left no kindred.*

35. A husband surviving his wife has the same rights in respect of her property, if she dies intestate, as a widow has in respect of her husband's property, if he dies intestate. *Rights of widower.*

Distribution where there are lineal descendants

36. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants shall be those contained in sections 37 to 40. *Rules of distribution.*

37. Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there is only one, or shall be equally divided among all his surviving children. *Where intestate has left child or children only.*

38. Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild if there is only one, or shall be equally divided among all his surviving grandchildren. *Where intestate has left no child, but grandchild or grandchildren.*

Illustrations

(i) A has three children and no more, John, Mary, and Henry. They all die before the father, John leaving two children, Mary three and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren will have one-ninth.

(ii) But if Henry has died leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

39. In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree. *Where intestate has left only great-grandchildren or remoter lineal descendants.*

(*Part V.—Intestate Succession.*)

Where intestate leaves lineal descendants not all in same degree of kindred to him, and those through whom the more remote are descended are dead.

40. (*1*) If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him.

(*2*) One of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

Illustrations.

(*i*) A had three children, John, Mary and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A, intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(*ii*) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild, and the remaining one-ninth is equally divided between the two great-grandchildren.

(*iii*) A has three children, John, Mary and Henry; John dies leaving four children; and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry, one-third to Mary's child, and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(*iv*) A has two children, and no more; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and the posthumous child.

Distribution where there are no lineal descendants.

Rules of distribution where intestate has left no lineal descendants.

41. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) shall be those contained in sections 42 to 48.

Where intestate's father living.

42. If the intestate's father is living, he shall succeed to the property.

43. If the intestate's father is dead, but the intestate's mother is living and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares

Where intestate's father dead but his mother, brothers and sisters living.

Illustration

A dies intestate survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother but not of his father The mother takes one fourth, each brother takes one fourth and Mary, the sister of half blood, takes one fourth

44. If the intestate's father is dead but the intestate's mother is living, and if any brother or sister and the child or children of any brother or sister who may have died in the intestate's lifetime are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death

Where intestate's father dead and his mother, a brother or sister, and children of any deceased brother or sister, living.

Illustration

A, the intestate, leaves his mother, his brothers John and Henry, and also one child of a deceased sister, Mary, and two children of George a deceased brother of the half blood who was the son of his father but not of his mother The mother takes one fifth, John and Henry each takes one fifth, the child of Mary takes one-fifth, and two children of George divide the remaining one fifth equally between them

45. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death

Where intestate's father dead and his mother and children of any deceased brother or sister living

Illustration

A, the intestate, leaves no brother or sister, but leaves his mother and one child of a deceased sister, Mary, and two children of a deceased brother George. The mother takes one-third, the child of Mary takes one third, and the children of George divide the remaining one third equally between them

46. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother, nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where intestate's father dead, but his mother living and no brother, sister, nephew or niece.

Where intestate has left neither lineal descendant, nor father, nor mother.

47. Where the intestate has left neither lineal descendant, nor father, nor mother, the property shall be divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant, nor parent, nor brother, nor sister.

48. Where the intestate has left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Illustrations.

(i) A, the intestate, has left a grandfather, and a grandmother and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(ii) A, the intestate, has left a great-grandfather, or a great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree will take equal shares.

(iii) A, the intestate, left a great-grandfather, an uncle and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree will take equal shares.

(iv) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They will each take one-eleventh of the property.

Children's advancements not brought into hotchpot.

49. Where a distributive share in the property of a person who has died intestate is claimed by a child, or any descendant of a child, of such person, no money or other property which the intestate may, during his life, have paid, given or settled to, or for the advancement of, the child by whom or by whose descendant the claim is made shall be taken into account in estimating such distributive share.

CHAPTER III.

Special Rules for Parsi Intestates.

Division of property among widow and children of intestate.

50. Where a Parsi dies leaving a widow and children, the property of which he dies intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widower and children of intestate.

51. Where a female Parsi dies leaving a widower and children, the property of which she dies intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

(*Part V —Intestate Succession.*)

Division of property amongst the children of male intestate who leaves no widow.

52. When a Parsi dies leaving children but no widow, the property of which he dies intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of female intestate who leaves no widower.

53. When a female Parsi dies leaving children but no widower, the property of which she dies intestate shall be divided amongst the children in equal shares

Division of pre-deceased child's share of intestate's property among the widow or widower and issue of such child.

54. If any child of a Parsi intestate has died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the intestate's death in such manner as if such deceased child had died immediately after the intestate's death.

Division of property when the intestate leaves a widow or widower, but no lineal descendants.

55. Where a Parsi dies leaving a widow or widower, but without leaving any lineal descendants,—

(*a*) his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property in respect of which he or she dies intestate, and the widow or widower shall take the other moiety, provided that, where both the father and the mother of the intestate survive him or her, the father's share shall be double the share of the mother;

(*b*) where neither the father nor the mother of the intestate survives him or her, the intestate's relatives on the father's side, in the order specified in Part I of Schedule II, shall take the moiety which the father and the mother would have taken if they had survived the intestate The next of-kin standing first in Part I of that Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity;

(*c*) where there are no relatives on the father's side, the intestate's widow or widower shall take the whole.

Division of property when the intestate leaves neither widow nor widower, nor lineal descendants.

56. When a Parsi dies leaving neither lineal descendants nor a widow or widower, his or her next-of-kin, in the order set forth in Part II of Schedule II, shall be entitled to succeed to the whole of the property as to which he or she dies intestate. The next-of-kin standing first in Part II of the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

PART VI.

Testamentary Succession.

CHAPTER I.

INTRODUCTORY.

Application of certain provisions of Part to a class of wills made by Hindus, etc.

57. [1][(*1*)] The provisions of this Part which are set out in Schedule III shall, subject to the restrictions and modifications specified therein, apply—

(*a*) to all wills and codicils made by any Hindu, Buddhist, Sikh or Jaina, on or after the first day of September, 1870, within the territories which at the said date were subject to the Lieutenant-Governor of Bengal or within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Madras and Bombay; and

(*b*) to all such wills and codicils made outside those territories and limits so far as relates to immoveable property situate within those territories or limits:

Provided that marriage shall not revoke any such will or codicil.

[2][(*2*) The provisions of section 63 shall apply to all wills and codicils made by any Hindu, Buddhist, Sikh or Jaina on or after the 1st day of January, 1927, to which those provisions are not applied by sub-section (*1*)].

General application of Part.

58. (*1*) The provisions of this Part shall not apply to testamentary succession to the property of any Muhammadan nor, save as provided by section 57, to testamentary succession to the property of any Hindu,

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1 This section was numbered as 57 (1) by s. 2 of the Indian Succession (Amendment) Act, 1926 (37 of 1926).

2 This sub-section was added by s. 2, *ibid.*

Buddhist, Sikh or Jaina; nor shall they apply to any will made before the first day of January, 1866

(2) Save as provided in sub-section (1) or by any other law for the time being in force, the provisions of this Part shall constitute the law of British India applicable to all cases of testamentary succession.

CHAPTER II.

Of Wills and Codicils

59. Every person of sound mind not being a minor may dispose of his property by will — Person capable of making wills.

Explanation 1—A married woman may dispose by will of any property which she could alienate by her own act during her life

Explanation 2—Persons who are deaf or dumb or blind are not thereby incapacitated for making a will if they are able to know what they do by it

Explanation 3—A person who is ordinarily insane may make a will during an interval in which he is of sound mind

Explanation 4—No person can make a will while he is in such a state of mind, whether arising from intoxication or from illness or from any other cause, that he does not know what he is doing.

Illustrations

(i) A can perceive what is going on in his immediate neighbourhood and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him or in whose favour it would be proper that he should make his will A cannot make a valid will

(ii) A executes an instrument purporting to be his will, but he does not understand the nature of the instrument, nor the effect of its provisions. This instrument is not a valid will

(iii) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes a will This is a valid will.

60. A father, whatever his age may be, may by will appoint a guardian or guardians for his child during minority — Testamentary guardian

61. A will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void — Will obtained by fraud, coercion, or importunity.

Illustrations

(i) A falsely and knowingly represents to the testator that the testator's only child is dead or that he has done some undutiful act and thereby induces the testator to make a will in his, A's favour, such will has been obtained by fraud, and is invalid.

(*ii*) A, by fraud and deception, prevails upon the testator to bequeath a legacy to him. The bequest is void.

(*iii*) A, being a prisoner by lawful authority, makes his will. The will is not invalid by reason of the imprisonment.

(*iv*) A threatens to shoot B, or to burn his house or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B, in consequence, makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(*v*) A, being of sufficient intellect, if undisturbed by the influence of others, to make a will yet being so much under the control of B that he is not a free agent, makes a will, dictated by B. It appears that he would not have executed the will but for fear of B. The will is invalid.

(*vi*) A, being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a will of a certain purport and does so merely to purchase peace and in submission to B. The will is invalid.

(*vii*) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his will in the manner recommended by B. The will is not rendered invalid by the intercession and persuasion of B.

(*viii*) A, with a view to obtaining a legacy from B, pays him attention and flatters him and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

Will may be revoked or altered.

62. A will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by will.

CHAPTER III.

OF THE EXECUTION OF UNPRIVILEGED WILLS.

Execution of unprivileged wills.

63. Every testator, not being a soldier employed in an expedition or engaged in actual warfare, [1][or an airman so employed or engaged] or a mariner at sea, shall execute his will according to the following rules :—

(*a*) The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.

(*b*) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.

(*c*) The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the will or has seen some other person sign the will, in the presence

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[1] These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

64. If a testator, in a will or codicil duly attested, refers to any other document then actually written as expressing any part of his intentions, such document shall be deemed to form a part of the will or codicil in which it is referred to. Incorporation of papers by reference.

CHAPTER IV.

OF PRIVILEGED WILLS.

65. Any soldier being employed in an expedition or engaged in actual warfare, [1][or an airman so employed or engaged] or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a will made in the manner provided in section 66. Such wills are called privileged wills. Privileged wills.

Illustrations.

(i) A, a medical officer attached to a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged will.

(ii) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and, being at sea, can make a privileged will.

(iii) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged will.

(iv) A, a mariner of a ship, in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, for the purposes of this section, a mariner at sea, and can make a privileged will.

(v) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged will.

(vi) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged will.

66. (1) Privileged wills may be in writing, or may be made by word of mouth. Mode of making and rules for executing privileged wills.

(2) The execution of privileged wills shall be governed by the following rules:—

(a) The will may be written wholly by the testator, with his own hand. In such case it need not be signed or attested.

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[1] These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

(*b*) It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

(*c*) If the instrument purporting to be a will is written wholly or in part by another person and is not signed by the testator, it shall be deemed to be his will, if it is shown that it was written by the testator's directions or that he recognised it as his will.

(*d*) If it appears on the face of the instrument that the execution of it in the manner intended by the testator was not completed, the instrument shall not, by reason of that circumstance, be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

(*e*) If the soldier, [1][airman] or mariner has written instructions for the preparation of his will, but has died before it could be prepared and executed, such instructions shall be considered to constitute his will.

(*f*) If the soldier, [1][airman] or mariner has, in the presence of two witnesses, given verbal instructions for the preparation of his will, and they have been reduced into writing in his lifetime, but he has died before the instrument could be prepared and executed, such instructions shall be considered to constitute his will, although they may not have been reduced into writing in his presence, nor read over to him.

(*g*) The soldier, [1][airman] or mariner may make a will by word of mouth by declaring his intentions before two witnesses present at the same time.

(*h*) A will made by word of mouth shall be null at the expiration of one month after the testator, being still alive, has ceased to be entitled to make a privileged will.

CHAPTER V.

OF THE ATTESTATION, REVOCATION, ALTERATION AND REVIVAL OF WILLS.

Effect of gift to attesting witness.

67. A will shall not be deemed to be insufficiently attested by reason of any benefit thereby given either by way of bequest or by way of appointment to any person attesting it, or to his or her wife or husband; but the bequest or appointment shall be void so far as concerns the

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[1] This word was inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Explanation —A legatee under a will does not lose his legacy by attesting a codicil which confirms the will

Witness not disqualified by interest or by being executor

68. No person, by reason of interest in, or of his being an executor of, a will, shall be disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof

Revocation of will by testator's marriage.

69. Every will shall be revoked by the marriage of the maker, except a will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not, in default of such appointment, pass to his or her executor or administrator, or to the person entitled in case of intestacy

Explanation —Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property

Revocation of unprivileged will or codicil.

70. No unprivileged will or codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another will or codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which an unprivileged will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same

Illustrations

(i) A has made an unprivileged will Afterwards A makes another unprivileged will which purports to revoke the first This is a revocation

(ii) A has made an unprivileged will Afterwards A being entitled to make a privileged will, makes a privileged will, which purports to revoke his unprivileged will This is a revocation

Effect of obliteration, interlineation or alteration in unprivileged will

71. No obliteration, interlineation or other alteration made in any unprivileged will after the execution thereof shall have any effect, except so far as the words or meaning of the will have been thereby rendered illegible or undiscernible, unless such alteration has been executed in like manner as hereinbefore is required for the execution of the will

Provided that the will as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses is made in the margin or on some other part of the will opposite or near to such alteration or at the foot or end of or opposite to a memorandum referring to such alteration and written at the end or some other part of the will

(*Part VI.—Testamentary Succession.*)

Revocation of privileged will or codicil.

72. A privileged will or codicil may be revoked by the testator by an unprivileged will or codicil, or by any act expressing an intention to revoke it and accompanied by such formalities as would be sufficient to give validity to a privileged will, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Explanation.—In order to the revocation of a privileged will or codicil by an act accompanied by such formalities as would be sufficient to give validity to a privileged will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged will.

Revival of unprivileged will.

73. (*1*) No unprivileged will or codicil, nor any part thereof, which has been revoked in any manner, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same.

(*2*) When any will or codicil, which has been partly revoked and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as has been revoked before the revocation of the whole thereof, unless an intention to the contrary is shown by the will or codicil.

CHAPTER VI.

Of the Construction of Wills.

Wording of will.

74. It is not necessary that any technical words or terms of art be used in a will, but only that the wording be such that the intentions of the testator can be known therefrom.

Inquiries to determine questions as to object or subject of will.

75. For the purpose of determining questions as to what person or what property is denoted by any words used in a will, a Court shall inquire into every material fact relating to the persons who claim to be interested under such will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Illustrations.

(*i*) A, by his will, bequeaths 1,000 rupees to his eldest son or to his youngest grandchild, or to his cousin, Mary. A Court may make inquiry in order to ascertain to what person the description in the will applies.

(*ii*) A, by his will, leaves to B "my estate called Black Acre". It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*iii*) A, by his will, leaves to B "the estate which I purchased of C". It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

(Part VI —Testamentary Succession)

76. (1) Where the words used in a will to designate or describe a legatee or a class of legatees sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. Misnomer or misdescription of object

(2) A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name

Illustrations

(i) A bequeaths a legacy to "Thomas the second son of my brother John" The testator has an only brother named John, who has no son named Thomas, but has a second son whose name is William William will have the legacy

(ii) A bequeaths a legacy to Thomas the second son of my brother John" The testator has an only brother, named John, whose first son is named Thomas, and whose second son is named William Thomas will have the legacy

(iii) The testator bequeaths his property "to A and B the legitimate children of C" C has no legitimate child, but has two illegitimate children, A and B The bequest to A and B takes effect, although they are illegitimate

(iv) The testator gives his residuary estate to be divided among "my seven children" and, proceeding to enumerate them, mentions six names only This omission will not prevent the seventh child from taking a share with the others

(v) The testator, having six grandchildren makes a bequest to "my six grandchildren" and, proceeding to mention them by their Christian names, mentions one twice over omitting another altogether The one whose name is not mentioned will take a share with the others.

(vi) The testator bequeaths 1,000 rupees to each of the three children of A At the date of the will A has four children Each of these four children will, if he survives the testator, receive a legacy of 1,000 rupees

77. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context. When words may be supplied

Illustration

The testator gives a legacy of "five hundred" to his daughter A and a legacy of "five hundred rupees" to his daughter B A will take a legacy of five hundred rupees

78. *If the thing which the testator intended to bequeath can be* sufficiently identified from the description of it given in the will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect. Rejection of erroneous particulars in description of subject

Illustrations

(i) A bequeaths to B "my marsh lands lying in L and in the occupation of X" The testator had marsh lands lying in L but had no marsh lands in the occupation of X The words "in the occupation of X" shall be rejected as erroneous and the marsh lands of the testator lying in L will pass by the bequest

(ii) The testator bequeaths to A "my zamindari of Rampur" He had an estate at Rampur but it was a taluq and not a zamindari The taluq passes by this bequest

79. If a will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be When part of description may not be rejected as erroneous.

considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

Explanation.—In judging whether a case falls within the meaning of this section, any words which would be liable to rejection under section 78 shall be deemed to have been struck out of the will.

Illustrations.

(*i*) A beqeaths to B "my marsh-lands lying in L and in the occupation of X." The testator had marsh lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest will be considered as limited to such of the testator's marsh-lands lying in L as were in the occupation of X.

(*ii*) A bequeaths to B "my marsh-lands lying in L and in the occupation of X, comprising 1,000 bighas of lands." The testator had marsh-lands lying in L some of which were in the occupation of X and some not in the occupation of X. The measurement is wholly inapplicable to the marsh-lands of either class, or to the whole taken together. The measurement will be considered as struck out of the will, and such of the testator's marsh-lands lying in L as were in the occupation of X shall alone pass by the bequest.

Extrinsic evidence admissible in cases of patent ambiguity.

80. Where the words of a will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Illustrations.

(*i*) A man, having two cousins of the name of Mary, bequeaths a sum of money to "my cousin Mary." It appears that there are two persons, each answering the description in the will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(*ii*) A, by his will, leaves to B "my estate called Sultanpur Khurd." It turns out that he had two estates called Sultanpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in case of patent ambiguity or deficiency.

81. Where there is an ambiguity or deficiency on the face of a will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Illustrations.

(*i*) A man has an aunt, Caroline, and a cousin, Mary, and has no aunt of the name of Mary. By his will he bequeaths 1,000 rupees to "my aunt Caroline" and 1,000 rupees to "my cousin, Mary" and afterwards bequeaths 2,000 rupees to "my before-mentioned aunt, Mary." There is no person to whom the description given in the will can apply, and evidence is not admissible to show who was meant by "my before-mentioned aunt, Mary." The bequest is therefore void for uncertainty under section 89.

(*ii*) A bequeaths 1,000 rupees to leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(*iii*) A bequeaths to B rupees, or "my estate of ." Evidence is not admissible to show what sum or what estate the testator intended to insert.

Meaning of clause to be collected from entire will.

82. The meaning of any clause in a will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other.

Illustration.

The testator by a will made on his death-bed bequeathed all his property to C D. for life and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under section 118, but it will take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

88. Where two clauses or gifts in a will are irreconcileable, so that they cannot possibly stand together, the last shall prevail.

Illustrations.

(*i*) The testator by the first clause of his will leaves his estate of Ramnagar "to A." and by the last clause of his will leaves it "to B and not to A." B will have it.

(*ii*) If a man at the commencement of his will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition will prevail.

Will or bequest void for uncertainty.

89. A will or bequest not expressive of any definite intention is void for uncertainty.

Illustration.

If a testator says "I bequeath goods to A," or "I bequeath to A," or "I leave to A all the goods mentioned in the Schedule" and no Schedule is found, or "I bequeath 'money,' 'wheat,' 'oil,' " or the like, without saying how much, this is void.

Words describing subject refer to property answering description at testator's death.

90. The description contained in a will of property, the subject of gift, shall, unless a contrary intention appears by the will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Power of appointment executed by general request.

91. Unless a contrary intention appears by the will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to objects of power in default of appointment.

92. Where property is bequeathed to or for the benefit of certain objects as a specified person may appoint or for the benefit of certain objects in such proportions as a specified person may appoint, and the will does not provide for the event of no appointment being made; if the power given by the will is not exercised, the property belongs to all the objects of the power in equal shares.

Illustration.

A, by his will, bequeaths a fund to his wife, for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund will be divided equally among the children.

93. Where a bequest is made to the "heirs" or "right heirs" or "relations" or "nearest relations" or "family" or "kindred" or "nearest of kin" or "next of kin" of a particular person without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Bequest to "heirs," etc., of particular person without qualifying terms.

Illustrations

(i) A leaves his property to my own nearest relations. The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(ii) A bequeaths 10,000 rupees to B for his life and, after the death of B, to my own right heirs. The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(iii) A leaves his property to B, but if B dies before him, to B's next-of-kin. B dies before A; the property devolves as if it had belonged to B and he had died intestate, leaving assets for the payment of his debts independently of such property.

(iv) A leaves 10,000 rupees to B for his life, and after his decease to the heirs of C. The legacy goes as if it had belonged to C and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

94. Where a bequest is made to the "representatives" or "legal representatives" or "personal representatives" or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it.

Bequest to "representatives," etc., of particular person.

Illustration

A bequest is made to the legal representatives of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and will apply it in the first place to the discharge of such part of A's debts as may remain unpaid; if there be any surplus B will pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

95. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the will that only a restricted interest was intended for him.

Bequest without words of limitation.

96. Where property is bequeathed to a person with a bequest in the alternative to another person or to a class of persons, then, if a contrary intention does not appear by the will, the legatee first named shall be entitled to the legacy if he is alive at the time when it takes effect, but if he is then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

Bequest in alternative.

Illustrations

(i) A bequest is made to A or to B. A survives the testator. B takes nothing.

(ii) A bequest is made to A or to B. A dies after the date of the will and before the testator. The legacy goes to B.

(*iii*) A bequest is made to A or to B. A is dead at the date of the will. The legacy goes to B.

(*iv*) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(*v*) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(*vi*) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(*vii*) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to bequest to person.

97. Where property is bequeathed to a person, and words are added which describe a class of persons but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the will.

Illustrations.

(*i*) A bequest is made—

to A and his children,
to A and his children by his present wife,
to A and his heirs,
to A and the heirs of his body,
to A and the heirs male of his body,
to A and the heirs female of his body,
to A and his issue,
to A and his family,
to A and his descendants,
to A and his representatives,
to A and his personal representatives,
to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(*ii*) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(*iii*) A bequest is made to A for life and after his death to his issue. At the death of A the property belongs in equal shares to all persons who then answer the description of issue of A.

Bequest to class of persons under general description only.

98. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Construction of terms.

99. In a will—

(*a*) the word "children" applies only to lineal descendants in the first degree of the person whose "children" are spoken of;

(*b*) the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "grandchildren" are spoken of;

(*c*) the words "nephews" and "nieces" apply only to children of brothers or sisters;

(*d*) the words " cousins," or ' first cousins," or 'cousins german," apply only to children of brothers or of sisters of the father or mother of the person whose ' cousins, or first-cousins," or " cousins german," are spoken of,

(*e*) the words " first cousins once removed " apply only to children of cousins-german, or to cousins-german of a parent of the person whose ' first cousins once removed " are spoken of,

(*f*) the words " second cousins " apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose " second cousins ' are spoken of,

(*g*) the words " issue " and " descendants ' apply to all lineal descendants whatever of the person whose ' issue " or " descendants " are spoken of,

(*h*) words expressive of collateral relationship apply alike to relatives of full and of half blood, and

(*i*) all words expressive of relationship apply to a child in the womb who is afterwards born alive

100. In the absence of any intimation to the contrary in a will, the word " child," the word " son ' the word " daughter " or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or, where there is no such legitimate relative, a person who has acquired, at the date of the will the reputation of being such relative

Words expressing relationship denote only legitimate relatives or failing such relatives reputed legitimate

Illustrations

(i) A having three children, B, C and D of whom B and C are legitimate and D is illegitimate leaves his property to be equally divided among my children " The property belongs to B and C in equal shares to the exclusion of D

(ii) A, having a niece of illegitimate birth who has acquired the reputation of being his niece and having no legitimate niece bequeaths a sum of money to his niece The illegitimate niece is entitled to the legacy

(iii) A, having in his will enumerated his children and named as one of them B who is illegitimate leaves a legacy to my said children B will take a share in the legacy along with the legitimate children

(iv) A leaves a legacy to ' the children of B B is dead and has left none but illegitimate children All those who had at the date of the will acquired the reputation of being the children of B are objects of the gift

(v) A bequeaths a legacy to the children of B B never had any legitimate child C and D had at the date of the will acquired the reputation of being children of B After the date of the will and before the death of the testator, E and F were born and acquired the reputation of being children of B Only C and D are objects of the bequest

(vi) A makes a bequest in favour of his child by a certain woman not his wife B had acquired at the date of the will the reputation of being the child of A by the woman designated B takes the legacy

(vii) A makes a bequest in favour of his child to be born of a woman who never becomes his wife The bequest is void

(viii) A makes a bequest in favour of the child of which a certain woman not married to him is pregnant The bequest is valid

Rules of construction where will purports to make two bequests to same person.

101. Where a will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the will to show what he intended, the following rules shall have effect in determining the construction to be put upon the will:—

(*a*) If the same specific thing is bequeathed twice to the same legatee in the same will or in the will and again in the codicil, he is entitled to receive that specific thing only.

(*b*) Where one and the same will or one and the same codicil purports to make, in two places, a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.

(*c*) Where two legacies of unequal amount are given to the same person in the same will, or in the same codicil, the legatee is entitled to both.

(*d*) Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a will and the other by a codicil, or each by a different codicil, the legatee is entitled to both legacies.

Explanation.—In clauses (*a*) to (*d*) of this section, the word " will " does not include a codicil.

Illustrations.

(*i*) A, having ten shares, and no more, in the Imperial Bank of India, made his will, which contains near its commencement the words "I bequeath my ten shares in the Imperial Bank of India to B." After other bequests, the will concludes with the words "and I bequeath my ten shares in the Imperial Bank of India to B." B is entitled simply to receive A's ten shares in the Imperial Bank of India.

(*ii*) A, having one diamond ring, which was given him by B, bequeaths to C the diamond ring which was given by B. A afterwards made a codicil to his will, and thereby, after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(*iii*) A, by his will, bequeaths to B the sum of 5,000 rupees and afterwards in the same will repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(*iv*) A, by his will, bequeaths to B the sum of 5,000 rupees and afterwards in the same will bequeaths to B the sum of 6,000 rupees. B is entitled to receive 11,000 rupees.

(*v*) A, by his will, bequeaths to B 5,000 rupees and by a codicil to the will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(*vi*) A, by one codicil to his will, bequeaths to B 5,000 rupees and by another codicil bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(*vii*) A, by his will, bequeaths "500 rupees to B because she was my nurse," and in another part of the will bequeaths 500 rupees to B "because she went to England with my children." B is entitled to receive 1,000 rupees.

(*viii*) A, by his will, bequeaths to B the sum of 5,000 rupees and also, in another part of the will, an annuity of 400 rupees. B is entitled to both legacies.

(*ix*) A, by his will, bequeaths to B the sum of 5,000 rupees and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

(*Part VI.—Testamentary Succession.*)

102. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property. **Constitution of residuary legatee.**

Illustrations

(i) A makes her will, consisting of several testamentary papers, in one of which are contained the following words —"I think there will be something left, after all funeral expenses, etc, to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to B is constituted residuary legatee

(ii) A makes his will, with the following passage at the end of it —"I believe there will be found sufficient in my banker s hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure." B is constituted the residuary legatee

(iii) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C B is the residuary legatee

103. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect. **Property to which residuary legatee entitled.**

Illustration

A by his will bequeaths certain legacies, of which one is void under section 118, and another lapses by the death of the legatee He bequeaths the residue of his property to B After the date of his will A purchases a zamindari, which belongs to him at the time of his death B is entitled to the two legacies and the zamindari as part of the residue

104. If a legacy is given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and, if he dies without having received it, it shall pass to his representatives **Time of vesting legacy in general terms.**

105. (*1*) If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appears by the will that the testator intended that it should go to some other person **In what case legacy lapses.**

(*2*) In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator

Illustrations

(i) The testator bequeaths to B "500 rupees which B owes me" B dies before the testator, the legacy lapses

(ii) A bequest is made to A and his children A dies before the testator or happens to be dead when the will is made The legacy to A and his children lapses

(iii) A legacy is given to A, and, in case of his dying before the testator, to B A dies before the testator The legacy goes to B

(iv) A sum of money is bequeathed to A for life and after his death to B A dies in the lifetime of the testator, B survives the testator The bequest to B takes effect

(v) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year to B A completes his eighteenth year and dies in the lifetime of the testator The legacy to A lapses and the bequest to B does not take effect

(vi) The testator and the legatee perished in the same shipwreck There is no evidence to show which died first The legacy lapses

Legacy does not lapse if one of two joint legatees die before testator.

106. If a legacy is given to two persons jointly, and one of them dies before the testator, the other legatee takes the whole.

Illustration.

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

Effect of words showing testator's intention to give distinct shares.

107. If a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then, if any legatee dies before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Illustration.

A sum of money is bequeathed to A, B and C, to be equally divided among them. A dies before the testator. B and C will only take so much as they would have had if A had survived the testator.

When lapsed share goes as undisposed of.

108. Where a share which lapses is a part of the general residue bequeathed by the will, that share shall go as undisposed of.

Illustration.

The testator bequeaths the residue of his estate to A, B and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

When bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

109. Where a bequest has been made to any child or other lineal descendant of the testator, and the legatee dies in the lifetime of the testator, but any lineal descendant of his survives the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention appears by the will.

Illustration.

A makes his will, by which he bequeaths a sum of money to his son, B, for his own absolute use and benefit. B dies before A, leaving a son, C, who survives A, and having made his will whereby he bequeaths all his property to his widow, D. The money goes to D.

[illegible]est to [illegible] benefit [illegible] does [illegible] lapse by [illegible] death.

110. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

[illegible]urvivor-[illegible]hip in case of bequest to described class.

111. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as are alive at the testator's death.

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator by reason of a prior bequest or otherwise, the property shall

at that time go to such of them as are then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations

(i) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them B had died previous to the date of the will, leaving three children C, D and E E died after the date of the will, but before the death of A C and D survive A The legacy will belong to C and D, to the exclusion of the representatives of E

(ii) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B At the death of the testator, B had two children living, C and D, and he never had any other child Afterwards, during the life time of A, C died, leaving F, his executor D has survived A D and E are jointly entitled to so much of the lease hold term as remains unexpired

(iii) A sum of money was bequeathed to A for her life, and after her decease to the children of B At the death of the testator, B had two children living, C and D, and, after that event, two children, E and F, were born to B C and E died in the lifetime of A, C having made a will, E having made no will A has died, leaving D and F surviving her The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E and one to F

(iv) A bequeaths one third of his lands to B for his life, and after his decease to the sisters of B At the death of the testator, B had two sisters living C and D, and after that event another sister E was born C died during the life of B, D and E have survived B One third of A's lands belong to D, E and the representatives of C, in equal shares

(v) A bequeaths 1,000 rupees to B for life and after his death equally among the children of C Up to the death of B, C had not had any child The bequest after the death of B is void

(vi) A bequeaths 1,000 rupees to "all the children born or to be born" of B to be divided among them at the death of C At the death of the testator, B has two children living, D and F After the death of the testator but in the lifetime of C, two other children, F and G, are born to B After the death of C another child is born to B The legacy belongs to D, F, F and G, to the exclusion of the after-born child of B

(vii) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority At the testator's death B had one child living, named C He afterwards had two other children named D and E E died, but C and D were living when C attained majority The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority

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CHAPTER VII

OF VOID BEQUESTS

112. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Bequest to person by particular description, who is not in existence at testator's death.

Exception —If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the

testator, by reason of a prior bequest or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or, if he is dead, to his representatives.

Illustrations.

(i) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator, B has no son. The bequest is void.

(ii) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death the legacy goes to C's son.

(iii) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(iv) A bequeaths his estate of Green Acre to B for life, and at his decease, to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(v) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

Bequest to person not in existence at testator's death subject to prior bequest.

113. Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Illustrations.

(i) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(ii) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(iii) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that, if any of them marries under the age of eighteen, her portions shall be settled so that it may belong to herself for life and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect in the case of each daughter who marries under eighteen of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(iv) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to

settle the fund and this direction amounts to a bequest to persons not yet born, of a life interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

114. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's death and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong. **Rule against perpetuity.**

Illustrations

(i) A fund is bequeathed to A for his life and after his death to B for his life, and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25 may be a son born after the death of the testator, such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B, and the vesting of the fund may thus be delayed beyond the lifetime of A and B and the minority of the sons of B. The bequest after B's death is void.

(ii) A fund is bequeathed to A for his life and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease and the time [illegible] will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(iii) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18, but that, if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(iv) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that, if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughters whose share it was. All these provisions are valid.

115. If a bequest is made to a class of persons with regard to some of whom it is inoperative by reason of the provisions of section 113 or section 114, such bequest shall be wholly void. **Bequest to a class some of whom may come under rules in sections 113 and 114.**

Illustrations

(i) A fund is bequeathed to A for life and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death, and, as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(ii) A fund is bequeathed to A for his life and after his death to B, C, D and all other children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in *illustration* (i). The mention of B, C and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

(*Part VI.—Testamentary Succession.*)

Bequest to take effect on failure of bequest void under section 113, 114 or 115.

116. Where a bequest is void by reason of any of the provisions of section 113, section 114, or section 115, any bequest contained in the same will, and intended to take effect after or upon failure of such prior bequest, is also void.

Illustrations.

(*i*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under section 114. The bequest to B is void.

(*ii*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and, if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under section 114. The bequest to B is void.

Effect of direction for accumulation.

117. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(*i*) The will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal, together with the accumulations, shall then be divided between A, B and C. A, B and C are entitled to receive the sum of 10,000 rupees at the end of a year from the testator's death.

(*ii*) The will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(*iii*) The will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B will receive, at the end of one year from the testator's death, the rents which have accrued during the year, together with any interest which may have been made by investing them.

(*iv*) The will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(*v*) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the will, but in consequence of B's minority.

Bequest to religious or charitable uses.

118. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a will executed not less than twelve months before his death,

and deposited within six months from its execution in some place provided by law for the safe custody of the wills of living persons.

Illustrations

A having a nephew makes a bequest by a will not executed and deposited as required—

for the relief of poor people,
for the maintenance of sick soldiers,
for the erection or support of a hospital,
for the education and preferment of orphans,
for the support of scholars,
for the erection or support of a school,
for the building and repairs of a bridge,
for the making of roads,
for the erection or support of a church,
for the repairs of a church,
for the benefit of ministers of religion,
for the formation or support of a public garden.

All these bequests are void.

CHAPTER VIII

OF THE VESTING OF LEGACIES

119. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy, and in such cases the legacy is from the testator's death said to be vested in interest.

Date of vesting of legacy when payment or possession postponed.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that, if a particular event shall happen, the legacy shall go over to another person.

Illustrations

(i) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(ii) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(iii) A fund is bequeathed to A for life and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(*iv*) A fund is bequeathed to A until B attains the age of 18 and then to B. The legacy to B is vested in interest from the testator's death.

(*v*) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(*vi*) A fund is bequeathed to A, B and C in equal shares to be paid to them on their attaining the age of 18, respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vested in interest in A, B and C, subject to be divested in case A, B and C shall all die under 18, and, upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy contingent upon specified uncertain event.

120. (*1*) A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens.

(*2*) A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible.

(*3*) In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit, the bequest of the fund is not contingent.

Illustrations.

(*i*) A legacy is bequeathed to D in case B and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B and C all die under 18, or one of them attains that age.

(*ii*) A sum of money is bequeathed to A "in case he shall attain the age of 18," or "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition is fulfilled by his attaining that age.

(*iii*) An estate is bequeathed to A for life, and after his death to B if B shall then be living; but if B shall not be then living to C. A, B and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other has happened.

(*iv*) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(*v*) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that, if she neither attains 18 nor marries under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy although she may have married under 18 without the consent of B.

(*vi*) An estate is bequeathed to A until he shall marry and after that event to B. B's interest in the bequest is contingent until the condition is fulfilled by A's marrying.

(*vii*) An estate is bequeathed to A until he shall take advantage of any law for the relief of insolvent debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of such a law.

(*viii*) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(*ix*) A leaves his farm of Sultanpur Khurd to B, if B shall convey his own farm of Sultanpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(*x*) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent until the condition is fulfilled by the expiration of the five years without B's having married C, or by the occurrence within that period of an event which makes the fulfilment of the condition impossible.

(*xi*) A fund is bequeathed to A if B shall not make any provision for him by will. The legacy is contingent until B's death.

(*xii*) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(*xiii*) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

121. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy. *Vesting of interest in bequest to such members of a class as shall have attained particular age.*

Illustration

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that, while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

CHAPTER IX

OF ONEROUS BEQUESTS

122. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully. *Onerous bequests.*

Illustration

A, having shares in (X), a prosperous joint stock company and also shares in (Y), a joint stock company in difficulties in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X).

123. Where a will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous. *One of two separate and independent bequests to same person may be accepted, and other refused.*

Illustration

A, having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He will not by this refusal forfeit the money.

CHAPTER X

OF CONTINGENT BEQUESTS

124. Where a legacy is given if a specified uncertain event shall happen and no time is mentioned in the will for the occurrence of that event, the legacy cannot take effect, unless such event happens before the period when the fund bequeathed is payable or distributable. *Bequest contingent upon specified uncertain event, no time being mentioned for its occurrence.*

Illustrations

(*i*) A legacy is bequeathed to A, and, in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(ii) A legacy is bequeathed to A, and, in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, the legacy to B does not take effect.

(iii) A legacy is bequeathed to A when and if he attains the age of 18, and, in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(iv) A legacy is bequeathed to A for life, and, after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children" are to be understood as meaning in case B dies without children during the lifetime of A.

(v) A legacy is bequeathed to A for life, and, after his death to B, and, "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B dies in the lifetime of A."

Bequest to such of certain persons as shall be surviving at some period not specified.

125. Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as are alive at the time of payment or distribution, unless a contrary intention appears by the will.

Illustrations.

(i) Property is bequeathed to A and B to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(ii) Property is bequeathed to A for life, and, after his death, to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(iii) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that, if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(iv) Property is bequeathed to A for life, and, after his death, to B and C, with a direction that, in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

CHAPTER XI.

OF CONDITIONAL BEQUESTS.

Bequest upon impossible condition.

126. A bequest upon an impossible condition is void.

Illustrations.

(i) An estate is bequeathed to A on condition that he shall walk 100 miles in an hour. The bequest is void.

(ii) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the will. The bequest is void.

Bequest upon illegal or immoral condition.

127. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

Illustrations.

(i) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(ii) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

(Part VI.—Testamentary Succession.)

128. Where a will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Fulfilment of condition precedent to vesting of legacy.

Illustrations

(i) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E A marries with the written consent of B C is present at the marriage D sends a present to A previous to the marriage E has been personally informed by A of his intentions, and has made no objection A has fulfilled the condition

(ii) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D D dies A marries with the consent of B and C A has fulfilled the condition

(iii) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D A marries in the lifetime of B C and D with the consent of B and C only A has not fulfilled the condition

(iv) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D A obtains the unconditional assent of B C and D to his marriage with E Afterwards B, C and D capriciously retract their consent A marries E A has fulfilled the condition

(v) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D A marries without the consent of B, C and D but obtains their consent after the marriage A has not fulfilled the condition

(vi) A makes his will whereby he bequeaths a sum of money to B if B shall marry with the consent of A's executors B marries during the lifetime of A and A afterwards expresses his approbation of the marriage A dies The bequest to B takes effect

(vii) A legacy is bequeathed to A if he executes a certain document within a time specified in the will The document is executed by A within a reasonable time but not within the time specified in the will A has not performed the condition, and is not entitled to receive the legacy

129. Where there is a bequest to one person and a bequest of the same thing to another, if the prior bequest shall fail the second bequest shall take effect upon the failure of the prior bequest although the failure may not have occurred in the manner contemplated by the testator

Bequest to A and on failure of prior bequest to B.

Illustrations

(i) A bequeaths a sum of money to his own children surviving him and if they all die under 18 to B A dies without having ever had a child The bequest to B takes effect

(ii) A bequeaths a sum of money to B on condition that he shall execute a certain document within three months after A's death and if he should neglect to do so to C B dies in the testator's lifetime The bequest to C takes effect

130. Where the will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect, unless the prior bequest fails in that particular manner

When second bequest not to take effect on failure of first

Illustration

A makes a bequest to his wife but in case she should die in his lifetime bequeaths to B that which he had bequeathed to her A and his wife perish together, under circumstances which make it impossible to prove that she died before him the bequest to B does not take effect

Bequest over, conditional upon happening or not happening of specified uncertain event.

131. (1) A bequest may be made to any person with the condition superadded that, in case a specified uncertain event shall happen, the thing bequeathed shall go to another person, or that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person.

(2) In each case the ulterior bequest is subject to the rules contained in sections 120, 121, 122, 123, 124, 125, 126, 127, 129 and 130.

Illustrations.

(i) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be divested and to go to B in case A dies under 18.

(ii) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a will, the estate shall go to B. A disputes the competency of the testator to make a will. The estate goes to B.

(iii) A sum of money is bequeathed to A for life, and, after his death, to B; but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be divested if he dies leaving a son in A's lifetime.

(iv) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(v) A bequeaths to B the interest of a fund for life, and directs the fund to be divided at her death equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

Condition must be strictly fulfilled.

132. An ulterior bequest of the kind contemplated by section 131 cannot take effect, unless the condition is strictly fulfilled.

Illustrations.

(i) A legacy is bequeathed to A, with a proviso that, if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(ii) A legacy is bequeathed to A, with a proviso that, if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(iii) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that, if A dies under 18 or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second.

133. If the ulterior bequest be not valid the original bequest is not affected by it.

Illustrations.

(i) An estate is bequeathed to A for his life with condition superadded that, if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the will.

(ii) An estate is bequeathed to A for her life and, if she do not desert her husband, to D. A is entitled to the estate during her life as if no condition had been inserted in the will.

(iii) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under section 105, and A is entitled to the estate during his life.

134. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen, or not happen.

Illustrations

(i) An estate is bequeathed to A for his life, with a proviso that, in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood. He loses his life-interest in the estate.

(ii) An estate is bequeathed to A, provided that, if he marries under the age of 25 without the consent of the executors named in the will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(iii) An estate is bequeathed to A, provided that, if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(iv) An estate is bequeathed to A, with a proviso that, if she becomes a nun, she shall cease to have any interest in the estate. A becomes a nun. She loses her interest under the will.

(v) A fund is bequeathed to A for life, and, after his death, to B, if B shall be then living, with a proviso that, if B shall become a nun, the bequest to her shall cease to have any effect. B becomes a nun in the life-time of A. She thereby loses her contingent interest in the fund.

135. In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by section 120.

Such condition must not be invalid under section 120.

136. Where a bequest is made with a condition superadded that, unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect but no time is specified for the performance of the act, if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

Result of legatee rendering impossible or indefinitely postponing act for which no time specified, and on non-performance of which subject-matter to go over.

Illustrations

(i) A bequest is made to A, with a proviso that, unless he enters the Army, the legacy shall go over to B. A takes Holy Orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(ii) A bequest is made to A, with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

137. Where the will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

Performance of condition, precedent or subsequent, within specified time. Further time in case of fraud.

CHAPTER XII.

OF BEQUESTS WITH DIRECTIONS AS TO APPLICATION OR ENJOYMENT.

Direction that fund be employed in particular manner following absolute bequest of same to or for benefit of any person.

138. Where a fund is bequeathed absolutely to or for the benefit of any person, but the will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the will had contained no such direction.

Illustration.

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

Direction that mode of enjoyment of absolute bequest is to be restricted, to secure specified benefit for legatee.

139. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the will had contained no such direction.

Illustrations.

(*i*) A bequeaths the residue of his property to be divided equally among his daughters and directs that the shares of the daughters shall be settled upon themselves respectively for life and be paid to their children after their death. All the daughters die unmarried. The representatives of each daughter are entitled to her share of the residue.

(*ii*) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

Bequest of fund for certain purposes, some of which cannot be fulfilled.

140. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the will, remains a part of the estate of the testator.

Illustrations.

(*i*) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children. The son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(*ii*) A bequeaths the residue of his estate, to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

CHAPTER XIII.

OF BEQUESTS TO AN EXECUTOR.

Legatee named as executor cannot take unless he shows intention to act as executor.

141. If a legacy is bequeathed to a person who is named an executor of the will, he shall not take the legacy, unless he proves the will or otherwise manifests an intention to act as executor.

Illustration.

A legacy is given to A, who is named an executor A orders the funeral according to the directions contained in the will, and dies a few days after the testator, without having proved the will A has manifested an intention to act as executor

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CHAPTER XIV.

OF SPECIFIC LEGACIES

142. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific

Specific legacy defined.

Illustrations

(i) A bequeaths to B—

"the diamond ring presented to me by C"

"my gold chain"

"a certain bale of wool"

"a certain piece of cloth"

"all my household goods which shall be in or about my dwelling house in M Street, in Calcutta, at time of my death

"the sum of 1,000 rupees in a certain chest"

"the debt which B owes me"

"all my bills, bonds and securities belonging to me lying in my lodgings in Calcutta"

"all my furniture in my house in Calcutta"

"all my goods on board a certain ship now lying in the river Hughli"

"2 000 rupees which I have in the hands of C"

"the money due to me on the bond of D"

"my mortgage on the Rampur factory"

"one half of the money owing to me on my mortgage of Rampur factory"

"1,000 rupees, being part of a debt due to me from C"

"my capital stock of 1,000*l* in East India Stock

"my promissory notes of the Government of India for 10 000 rupees in their 4 per cent loan".

"all such sums of money as my executors may after my death, receive in respect of the debt due to me from the insolvent firm of D and Company"

"all the wine which I may have in my cellar at the time of my death"

"such of my horses as B may select"

"all my shares in the Imperial Bank of India"

"all my shares in the Imperial Bank of India which I may possess at the time of my death"

"all the money which I have in the 5½ per cent loan of the Government of India":

"all the Government securities I shall be entitled to at the time of my decease"

Each of these legacies is specific.

(ii) A, having Government promissory notes for 10 000 rupees bequeaths to his executors "Government promissory notes for 10 000 rupees in trust to sell" for the benefit of B The legacy is specific

(Part VI.—Testamentary Succession.)

Illustration.

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the will five per cent. Government securities for 5,000 rupees. The legacy is not specific.

145. A money legacy is not specific merely because the will directs its payment to be postponed until some part of the property of the testator has been reduced to a certain form, or remitted to a certain place.

Bequest of money where not payable until part of testator's property disposed of in certain way.

Illustration

A bequeaths to B 10,000 rupees and directs that this legacy shall be paid as soon as A's property in India shall be realised in England. The legacy is not specific.

146. Where a will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

When enumerated articles not deemed specifically bequeathed.

147. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

Retention, in form, of specific bequest to several persons in succession.

Illustrations

(i) A, having lease of a house for a term of years, fifteen of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although, if B lives for fifteen years, C can take nothing under the bequest.

(ii) A, having an annuity during the life of B, bequeaths it to C, for his life, and, after C's death, to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

148. Where property comprised in a bequest to two or more persons in succession is not specifically bequeathed, it shall, in the absence of any direction to the contrary, be sold, and the proceeds of the sale shall be invested in such securities as the High Court may by any general rule authorise or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the will.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

Illustration

A, having a lease for a term of years, bequeaths all his property to B for life, and, after B's death, to C. The lease must be sold, the proceeds invested as stated in this section and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

149. If there is a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

Where deficiency of assets to pay legacies, specific legacy not to abate with general legacies.

(*Part VI.—Testamentary Succession.*)

CHAPTER XV.

Of Demonstrative Legacies.

Demonstrative legacy defined.

150. Where a testator bequeaths a certain sum of money, or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that—

where specified property is given to the legatee, the legacy is specific;

where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(*i*) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific, the legacy to C is demonstrative.

(*ii*) A bequeaths to B—

"ten bushels of the corn which shall grow in my field of Green Acre":

"80 chests of the indigo which shall be made at my factory of Rampur":

"10,000 rupees out of my five per cent. promissory notes of the Government of India":

an annuity of 500 rupees "from my funded property":

"1,000 rupees out of the sum of 2,000 rupees due to me by C":

an annuity, and directs it to be paid "out of the rents arising from my taluk of Ramnagar".

(*iii*) A bequeaths to B—

"10,000 rupees out of my estate at Ramnagar," or charges it on his estate at Ramnagar:

"10,000 rupees, being my share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

Order of payment when legacy directed to be paid out of fund the subject of specific legacy.

151. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund and, so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

(Part VI —Testamentary Succession)

CHAPTER XVI

Of Ademption of Legacies

152. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed that is, it cannot take effect, by reason of the subject-matter having been withdrawn from the operation of the will — Ademption explained

Illustrations

(i) A bequeaths to B—

the diamond ring presented to me by C

'my gold chain"

'a certain bale of wool'

'a certain piece of cloth'

all my household goods which shall be in or about my dwelling house in M Street in Calcutta, at the time of my death

in his life time,—

sells or gives away the ring

converts the chain into a cup

converts the wool into cloth

makes the cloth into a garment

takes another house into which he removes all his goods.

Each of these legacies is adeemed

(ii) A bequeaths to B—

'the sum of 1,000 rupees in a certain chest'

'all the horses in my stable'

At the death of A, no money is found in the chest, and no horses in the stable. The legacies are adeemed

(iii) A bequeaths to B certain bales of goods A takes the goods with him on a voyage The ship and goods are lost at sea, and A is drowned The legacy is adeemed

153. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the will does not exist at the time of the death of the testator, or has been converted into property of a different kind, but it shall in such case be paid out of the general assets of the testator — Non ademption of demonstrative legacy

154. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed — Ademption of specific bequest of right to receive something from third party.

Illustrations

(i) A bequeaths to B—

'the debt which C owes me"

'2,000 rupees which I have in the hands of D'

'the money due to me on the bond of E'

'my mortgage on the Rampur factory"

All these debts are extinguished in A's lifetime, some with and some without his consent. All the legacies are adeemed

(ii) A bequeaths to B his interest in certain policies of life assurance A in his lifetime receives the amount of the policies. The legacy is adeemed

CHAPTER XV.

Of Demonstrative Legacies.

Demonstrative legacy defined.

150. Where a testator bequeaths a certain sum of money, or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that—

where specified property is given to the legatee, the legacy is specific;

where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(*i*) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific, the legacy to C is demonstrative.

(*ii*) A bequeaths to B—

"ten bushels of the corn which shall grow in my field of Green Acre":

"80 chests of the indigo which shall be made at my factory of Rampur":

"10,000 rupees out of my five per cent. promissory notes of the Government of India":

an annuity of 500 rupees "from my funded property":

"1,000 rupees out of the sum of 2,000 rupees due to me by C":

an annuity, and directs it to be paid "out of the rents arising from my taluk of Ramnagar".

(*iii*) A bequeaths to B—

"10,000 rupees out of my estate at Ramnagar," or charges it on his estate at Ramnagar:

"10,000 rupees, being my share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

Order of payment when legacy directed to be paid out of fund the subject of specific legacy.

151. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund and, so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

(*Part VI --Testamentary Succession*)

CHAPTER XVI

Of Ademption of Legacies

Ademption explained

152 If anything which has been specifically bequeathed does not belong to the testator at the time of his death or has been converted into property of a different kind, the legacy is adeemed that is, it cannot take effect, by reason of the subject matter having been withdrawn from the operation of the will

Illustrations

(i) A bequeaths to B—

the diamond ring presented to me by C

my gold chain

a certain bale of wool'

a certain piece of cloth'

all my household goods which shall be in or about my dwelling house in M Street in Calcutta at the time of my death

in his life time,—

sells or gives away the ring

converts the chain into a cup

converts the wool into cloth

makes the cloth into a garment

takes another house into which he removes all his goods

Each of these legacies is adeemed

(ii) A bequeaths to B—

the sum of 1 000 rupees in a certain chest

all the horses in my stable

At the death of A, no money is found in the chest and no horses in the stable The legacies are adeemed

(iii) A bequeaths to B certain bales of goods A takes the goods with him on a voyage The ship and goods are lost at sea, and A is drowned The legacy is adeemed

Non ademption of demonstrative legacy

153. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the will does not exist at the time of the death of the testator, or has been converted into property of a different kind, but it shall in such case be paid out of the general assets of the testator

Ademption of specific bequest of right to receive something from third party

154. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed

Illustrations

(i) A bequeaths to B—

'the debt which C owes me'

2 000 rupees which I have in the hands of D

'the money due to me on the bond of E'

'my mortgage on the Rampur factory"

All these debts are extinguished in A s lifetime, some with and some without his consent. All the legacies are adeemed

(ii) A bequeaths to B his interest in certain policies of life assurance A in his lifetime receives the amount of the policies. The legacy is adeemed

(*Part VI.—Testamentary Succession.*)

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

155. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Illustration.

A bequeaths to B "the debt due to me by C." The debt amounts to 10,000 rupees. C pays to A 5,000 rupees the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

Ademption *pro tanto* by testator's receipt of portion of entire fund of which portion has been specifically bequeathed.

156. If a portion of an entire fund or stock is specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Illustration.

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

Order of payment where portion of fund specifically bequeathed to one legatee, and legacy charged on same fund to another, and, testator having received portion of that fund, remainder insufficient to pay both legacies.

157. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee, then, if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives [1][500] rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

158. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Illustration.

A bequeaths to B—

"My capital stock of 1,000*l*. in East India Stock".

"my promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan."

A sells the stock and the notes. The legacies are adeemed.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

159. Where stock which has been specifically bequeathed exists only in part at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Illustration.

A bequeaths to B his 10,000 rupees in the $5\frac{1}{2}$ per cent. loan of the Government of India. A sells one-half of his 10,000 rupees in the loan in question. One-half of the legacy is adeemed.

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[1] These figures were substituted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

(Part VI.—Testamentary Succession.)

Non ademption of specific bequest of goods described as connected with certain place, by reason of removal.

160. A specific bequest of goods under a description connecting them with a certain place is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Illustrations

(i) A bequeaths to B "all my household goods which shall be in or about my dwelling house in Calcutta at the time of my death." The goods are removed from the house to save them from fire. A dies before they are brought back.

(ii) A bequeaths to B "all my household goods which shall be in or about my dwelling house in Calcutta at the time of my death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

When removal of thing bequeathed does not constitute ademption.

161. The removal of the thing bequeathed from the place in which it is stated in the will to be situated does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

Illustrations

(i) A bequeaths to B "all the bills, bonds and other securities for money belonging to me now lying in my lodgings in Calcutta." At the time of his death, these effects had been removed from his lodgings in Calcutta.

(ii) A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah in which he lives alternately, being possessed of one set of furniture only which he removes with himself to each house. At the time of his death the furniture is in the house at Chinsurah.

(iii) A bequeaths to B all his goods on board a certain ship then lying in the river Hughli. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

When thing bequeathed is a valuable to be received by testator from third person, and testator himself, or his representative, receives it.

162. Where the thing bequeathed is not the right to receive something of value from a third person but the money or other commodity which may be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

Illustration

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

Change by operation of law of subject of specific bequest between date of will and testator's death.

163. Where a thing specifically bequeathed undergoes a change between the date of the will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

(Part VI.—Testamentary Succession.)

Illustrations.

(*i*) A bequeaths to B "all the money which I have in the $5\frac{1}{2}$ per cent. loan of the Government of India." The securities for the $5\frac{1}{2}$ per cent. loan are converted during A's lifetime into 5 per cent. stock.

(*ii*) A bequeaths to B the sum of 2.000*l.* invested in Consols in the names of trustees for A. The sum of 2,000*l.* is transferred by the trustees into A's own name.

(*iii*) A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power under his marriage settlement to dispose of by will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

164. Where a thing specifically bequeathed undergoes a change between the date of the will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all my 3 per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed lent to third party on condition that it be replaced.

165. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

Stock specifically bequeathed sold but replaced, and belonging to testator at his death.

166. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

CHAPTER XVII.

OF THE PAYMENT OF LIABILITIES IN RESPECT OF THE SUBJECT OF A BEQUEST.

Non-liability of executor to exonerate specific legatees.

167. (*1*) Where property specifically bequeathed is subject at the death of the testator to any pledge, lien or incumbrance created by the testator himself or by any person under whom he claims, then, unless a contrary intention appears by the will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance.

(*2*) A contrary intention shall not be inferred from any direction which the will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this section.

Illustrations.

(i) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(ii) A bequeaths to B a zamindari which at A's death is subject to a mortgage for 10,000 rupees, and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to his charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Completion of testator's title to things bequeathed to be at cost of his estate.

168. Where anything is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations.

(i) A, having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(ii) A, having contracted for the purchase of a piece of land for a certain sum of money, one half of which is to be paid down and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase money. One half of the purchase money must be paid out of A's assets.

Exoneration of legatee's immoveable property for which land revenue or rent payable periodically.

169. Where there is a bequest of any interest in immoveable property in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them, as the case may be, up to the day of his death.

Illustration.

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate will make good 25 rupees in respect of the rent.

Exoneration of specific legatee's stock in joint stock company.

170. In the absence of any direction in the will, where there is a specific bequest of stock in a joint stock company, if any call or other payment is due from the testator at the time of his death in respect of the stock, such call or payment shall, as between the testator's estate and the legatee, be borne by the estate; but, if any call or other payment becomes due in respect of such stock after the testator's death, the same shall, as between the testator's estate and the legatee, be borne by the legatee, if he accepts the bequest.

Illustrations.

(i) A bequeaths to B his shares in a certain railway. At A's death there was due from him the sum of 100 rupees in respect of each share being the amount of a call which has been duly made, and the sum of five rupees in respect of each share being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(ii) A has agreed to take 50 shares in an intended joint stock company, and has contracted to pay up 100 rupees in respect of each share which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(*iii*) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(*iv*) A bequeaths to B his shares in a joint-stock company. B accepts the bequest. Afterwards the affairs of the company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(*v*) A is the owner of ten shares in a railway company. At a meeting held during his lifetime a call is made of fifty rupees per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

CHAPTER XVIII.

OF BEQUESTS OF THINGS DESCRIBED IN GENERAL TERMS.

Bequest of thing described in general terms.

171. If there is a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Illustrations

(*i*) A bequeaths to B a pair of carriage-horses or a diamond ring. The executor must provide the legatee with such articles if the state of the assets will allow it.

(*ii*) A bequeaths to B "my pair of carriage-horses". A had no carriage-horses at the time of his death. The legacy fails.

CHAPTER XIX.

OF BEQUESTS OF THE INTEREST OR PRODUCE OF A FUND.

Bequest of interest or produce of fund.

172. Where the interest or produce of a fund is bequeathed to any person, and the will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal, as well as the interest, shall belong to the legatee.

Illustrations.

(*i*) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(*ii*) A bequeaths the interest of his $5\frac{1}{2}$ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(*iii*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

CHAPTER XX.

OF BEQUESTS OF ANNUITIES.

Annuity created by will payable for life only unless contrary intention appears by will.

173. Where an annuity is created by will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the will, notwithstanding that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

(Part VI —Testamentary Succession.)

Illustrations

(i) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees

(ii) A bequeaths to B the sum of 500 rupees monthly B is entitled during his life to receive the sum of 500 rupees every month

(iii) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death

Period of vesting where will directs that annuity be provided out of proceeds of property, or out of property generally, or where money bequeathed to be invested in purchase of annuity.

174. Where the will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of any annuity for any person, on the testator's death, the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him or to receive the money appropriated for that purpose by the will.

Illustrations

(i) A by his will directs that his executors shall out of his property, purchase an annuity of 1,000 rupees for B B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him or to receive such a sum as will be sufficient for the purchase of such an annuity

(ii) A bequeaths a fund to B for his life, and directs that after B's death, it shall be laid out in the purchase of an annuity for C B and C survive the testator C dies in B's lifetime On B's death the fund belongs to the representative of C

Abatement of annuity.

175. Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the will.

Where gift of annuity and residuary gift, whole annuity to be first satisfied.

176. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose

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CHAPTER XXI.

Of Legacies to Creditors and Portioners.

Creditor *prima facie* entitled to legacy as well as debt.

177. Where a debtor bequeaths a legacy to his creditor, and it does not appear from the will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy, as well as to the amount of the debt

Child *prima facie* entitled to legacy as well as portion.

178. Where a parent, who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy, as well as the portion.

Illustration.

A, by articles entered into in contemplation of his marriage with B covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by subsequent provision for legatee.

179. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

Illustrations.

(*i*) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(*ii*) A bequeaths 40,000 rupees to B, his orphan niece whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

CHAPTER XXII.

OF ELECTION.

Circumstances in which election takes place.

180. Where a person, by his will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and, in the latter case, he shall give up any benefits which may have been provided for him by the will.

Devolution of interest relinquished by owner.

181. An interest relinquished in the circumstances stated in section 180 shall devolve as if it had not been disposed of by the will in favour of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the will.

Testator's belief as to his ownership immaterial.

182. The provisions of sections 180 and 181 apply whether the testator does or does not believe that which he professes to dispose of by his will to be his own.

Illustrations.

(*i*) The farm of Sultanpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultanpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*ii*) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel or to lose the estate.

(*iii*) A bequeaths to B 1,000 rupees, and to C an estate which will, under a settlement, belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate or to lose the legacy.

(*iv*) A, a person of the age of 18, domiciled in British India but owning real property in England, to which C is heir at law, bequeaths a legacy to C and, subject thereto, devises and bequeaths to B "all my property whatsoever and wheresoever." and dies under 21. The real property in England does not pass by the will. C may claim his legacy without giving up the real property in England.

(Part VI.—Testamentary Succession.)

183. A bequest for a person's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Bequest for man's benefit how regarded for purpose of election.

Illustration.

The farm of Sultanpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultanpur Buzurg to his own executors with a direction that it should be sold and the proceeds applied in payment of B's debts. B must elect whether he will abide by the will, or keep his farm of Sultanpur Khurd in opposition to it.

184. A person taking no benefit directly under a will, but deriving a benefit under it indirectly, is not put to his election.

Person deriving benefit indirectly not put to election.

Illustration.

The lands of Sultanpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultanpur to B, and 1,000 rupees to C. C dies intestate shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the will. In that capacity he receives the legacy of 1,000 rupees and accounts to B for the rents of the lands of Sultanpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultanpur in opposition to the will.

185. A person who in his individual capacity takes a benefit under a will may, in another character, elect to take in opposition to the will.

Person taking in individual capacity under will may in other character elect to take in opposition.

Illustration.

The estate of Sultanpur is settled upon A for life, and after his death, upon B. A leaves the estate of Sultanpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultanpur in opposition to the will, and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the will.

186. Notwithstanding anything contained in sections 180 to 185, where a particular gift is expressed in the will to be in lieu of something belonging to the legatee which is also in terms disposed of by the will, then, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the will.

Exception to provisions of last six sections.

Illustration.

Under A's marriage-settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultanpur during her life. A by his will bequeaths to his wife an annuity of 200 rupees during her life, in lieu of her interest in the estate of Sultanpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000 rupees. The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity but not the legacy of 1,000 rupees.

187. Acceptance of a benefit given by a will constitutes an election by the legatee to take under the will, if he had knowledge of his right to elect and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

When acceptance of benefit given by will constitutes election to take under will.

Illustrations.

(i) A is owner of an estate called Sultanpur Khurd, and has a life interest in another estate called Sultanpur Buzurg to which upon his death his son B will be absolutely entitled. The will of A gives the estate of Sultanpur Khurd to B, and the

estate of Sultanpur Buzurg to C. B, in ignorance of his own right to the estate of Sultanpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultanpur Khurd. B has not confirmed the bequest of Sultanpur Buzurg to C.

(*ii*) B, the eldest son of A, is the possessor of an estate called Sultanpur. A bequeaths Sultanpur to C, and to B the residue of A's property. B having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultanpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultanpur to C.

Circumstances in which knowledge or waiver is presumed or inferred.

188. (*1*) Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the will without doing any act to express dissent.

(*2*) Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

Illustration.

A bequeaths to B as estate to which C is entitled, and to C a coal mine. C takes possession of the mine and exhausts it. He has thereby confirmed the bequest of the estate to B.

When testator's representatives may call upon legatee to elect.

189. If the legatee does not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the will, the representatives shall, upon the expiration of that period, require him to make his election; and, if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the will.

Postponement of election in case of disability.

190. In case of disability the election shall be postponed until the disability ceases, or until the election is made by some competent authority.

CHAPTER XXIII.

Of Gifts in Contemplation of Death.

Property transferable by gift made in contemplation of death.

191. (*1*) A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by will.

(*2*) A gift is said to be made in contemplation of death where a man, who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness.

(*3*) Such a gift may be resumed by the giver; and shall not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Illustrations

(i) A, being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death,—

a watch

a bond granted by C to A

a bank note

a promissory note of the Government of India endorsed in blank

a bill of exchange endorsed in blank

certain mortgage deeds

A dies of the illness during which he delivered these articles.

B is entitled to—

the watch

the debt secured by C's bond

the bank note

the promissory note of the Government of India

the bill of exchange

the money secured by the mortgage deeds

(ii) A, being ill and in expectation of death, delivers to B the key of a trunk or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents or to A's goods of bulk in the warehouse.

(iii) A, being ill, and in expectation of death, puts aside certain articles in separate parcels and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

PART VII.

Protection of Property of Deceased.

Person claiming right by succession to property of deceased may apply for relief against wrongful possession.

192. (1) If any person dies leaving property, moveable or immoveable, any person claiming a right by succession thereto, or to any portion thereof, may make application to the District Judge of the district where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

(2) Any agent, relative or near friend, or the Court of Wards in cases within their cognizance, may, in the event of any minor or any disqualified or absent person being entitled by succession to such property as aforesaid, make the like application for relief.

Inquiry made by Judge.

193. The District Judge to whom such application is made shall, in the first place, examine the applicant on oath, and may make such further inquiry, if any, as he thinks necessary, as to whether there is

(Part VII.—Protection of Property of deceased.)

sufficient ground for believing that the party in possession or taking forcible means for seizing possession has no lawful title, and that the applicant, or the person on whose behalf he applies, is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a suit, and that the application is made *bonâ fide*.

Procedure.

194. If the District Judge is satisfied that there is sufficient ground for believing as aforesaid but not otherwise, he shall summon the party complained of, and give notice of vacant or disturbed possession by publication, and, after the expiration of a reasonable time, shall determine summarily the right to possession (subject to a suit as hereinafter provided) and shall deliver possession accordingly:

Provided that the Judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the inquiry necessary for summoning the party complained of or not.

Appointment of curator pending determination of proceeding.

195. If it further appears upon such inquiry as aforesaid that danger is to be apprehended of the misappropriation or waste of the property before the summary proceeding can be determined, and that the delay in obtaining security from the party in possession or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he is the lawful owner, the District Judge may appoint one or more curators whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary proceeding and the confirmation or delivery of possession in consequence thereof:

Provided that, in the case of land, the Judge may delegate to the Collector, or to any officer subordinate to the Collector, the powers of a curator:

Provided, further, that every appointment of a curator in respect of any property shall be duly published.

Powers conferable on curator.

196. The District Judge may authorise the curator to take possession of the property either generally, or until security is given by the party in possession, or until inventories of the property have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession:

Provided that it shall be in the discretion of the Judge to allow the party in possession to continue in such possession on giving security or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds or other effects.

(Part VII—Protection of Property of deceased)

197. (*1*) Where a certificate has been granted under Part X or under the Succession Certificate Act, 1889, or a grant of probate or letters of administration has been made, a curator appointed under this Part shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator. **Prohibition of exercise of certain powers by curators.**

(*2*) All persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be. **Payment of debts, etc., to curator.**

198. (*1*) The District Judge shall take from the curator security for the faithful discharge of his trust, and for rendering satisfactory account of the same as hereinafter provided, and may authorise him to receive out of the property such remuneration, in no case exceeding five per centum on the moveable property and on the annual profits of the immoveable property, as the District Judge thinks reasonable. **Curator to give security and may receive remuneration.**

(*2*) All surplus money realized by the curator shall be paid into Court, and invested in public securities for the benefit of the persons entitled thereto upon adjudication of the summary proceeding.

(*3*) Security shall be required from the curator with all reasonable despatch, and where it is practicable shall be taken generally to answer all cases for which the person may be afterwards appointed curator, but no delay in the taking of security shall prevent the Judge from immediately investing the curator with the powers of his office.

199. (*1*) Where the estate of the deceased person consists wholly or in part of land paying revenue to Government, in all matters regarding the propriety of summoning the party in possession, of appointing a curator, or of nominating individuals to that appointment, the District Judge shall demand a report from the Collector, and the Collector shall thereupon furnish the same: **Report from Collector when estate includes revenue paying land.**

Provided that in cases of urgency the Judge may proceed in the first instance without such report.

(*2*) The Judge shall not be obliged to act in conformity with any such report, but in case of his acting otherwise than according to such report he shall immediately forward a statement of his reasons to the High Court, and the High Court, if it is dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.

200. The curator shall be subject to all orders of the District Judge regarding the institution or the defence of suits, and all suits may be **Institution and defence of suits.**

instituted or defended in the name of the curator on behalf of the estate:

Provided that an express authority shall be requisite in the order of the curator's appointment for the collection of debts or rents; but such express authority shall enable the curator to give a full acquittance for any sums of money received by virtue thereof.

Allowances to apparent owners pending custody by curator.

201. Pending the custody of the property by the curator, the District Judge may make such allowances to parties having a *primâ facie* right thereto as upon a summary investigation of the rights and circumstances of the parties interested he considers necessary, and may, at his discretion, take security for the repayment thereof with interest, in the event of the party being found, upon the adjudication of the summary proceeding, not to be entitled thereto.

Accounts to be filed by curator.

202. The curator shall file monthly accounts in abstract, and shall, on the expiry of each period of three months, if his administration lasts so long, and, upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the District Judge.

Inspection of accounts and right of interested party to keep duplicate.

203. (*1*) The accounts of the curator shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by the curator.

(*2*) If it is found that the accounts of the curator are in arrear, or that they are erroneous or incomplete, or if the curator does not produce them whenever he is ordered to do so by the District Judge, he shall be punishable with fine not exceeding one thousand rupees for every such default.

Bar to appointment of second curator for same property.

204. If the Judge of any district has appointed a curator, in respect of the whole of the property of a deceased person, such appointment shall preclude the Judge of any other district within the same province from appointing any other curator, but the appointment of a curator in respect of a portion of the property of the deceased shall not preclude the appointment within the same province of another curator in respect of the residue or any portion thereof:

Provided that no Judge shall appoint a curator or entertain a summary proceeding in respect of property which is the subject of a summary proceeding previously instituted under this Part before another Judge:

(Part VII.—Protection of Property of deceased.)

Provided, further, that if two or more curators are appointed by different Judges for several parts of an estate, the High Court may make such order as it thinks fit for the appointment of one curator of the whole property.

Limitation of time for application for curator.

205. An application under this Part to the District Judge must be made within six months of the death of the proprietor whose property is claimed by right in succession.

Bar to enforcement of Part against public settlement or legal directions by deceased.

206. Nothing in this Part shall be deemed to authorise the contravention of any public act of settlement or of any legal directions given by a deceased proprietor of any property for the possession of his property after his decease in the event of minority or otherwise and, in every such case, as soon as the Judge having jurisdiction over the property of a deceased person is satisfied of the existence of such directions, he shall give effect thereto.

Court of Wards to be made curator in case of minors having property subject to its jurisdiction.

207. Nothing in this Part shall be deemed to authorise any disturbance of the possession of a Court of Wards of any property and in case a minor, or other disqualified person whose property is subject to the Court of Wards, is the party on whose behalf application is made under this Part the District Judge, if he determines to summon the party in possession and to appoint a curator shall invest the Court of Wards with the curatorship of the estate pending the proceeding without taking security as aforesaid, and if the minor or other disqualified person, upon the adjudication of the summary proceeding appears to be entitled to the property, possession shall be delivered to the Court of Wards.

Saving of right to bring suit.

208. Nothing contained in this Part shall be any impediment to the bringing of a suit either by the party whose application may have been rejected before or after the summoning of the party in possession, or by the party who may have been evicted from the possession under this Part.

Effect of decision of summary proceedings.

209. The decision of a District Judge in a summary proceeding under this Part shall have no other effect than that of settling the actual possession, but for this purpose it shall be final and shall not be subject to any appeal or review.

Appointment of public curators.

210. The Local Government may appoint public curators for any district or number of districts and the District Judge having jurisdiction shall nominate such public curators in all cases where the choice of a curator is left discretionary with him under this Part.

PART VIII.

Representative title to property of deceased on succession.

Character and property of executor or administrator as such.

211. (*1*) The executor or administrator, as the case may be, of a deceased person is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

(*2*) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, nothing herein contained shall vest in an executor or administrator any property of the deceased person which would otherwise have passed by survivorship to some other person.

Right to intestate's property.

212. (*1*) No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent *jurisdiction.*

(*2*) This section shall not apply in the case of the intestacy of a Hindu, Muhammadan, Buddhist, Sikh, Jaina or Indian Christian.

Right as executor or legatee when established.

213. (*1*) *No right* as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction in British India has granted probate of the will under which the right is claimed, or has granted letters of administration with the will or with a copy of an authenticated copy of the will annexed.

(*2*) This section shall not apply in the case of wills made by Muhammadans, and shall only apply *in the case of* wills made by any Hindu, Buddhist, Sikh or Jaina where such wills are of the class specified in section 57.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

214. (*1*) No Court shall—

(*a*) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effects of the deceased person or to any part thereof, or

(*b*) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under section 31 or section 32 of the Administrator General's Act, 1913, and having the debt mentioned therein, or III of

(iii) a succession certificate granted under Part X and having the debt specified therein, or

(iv) a certificate granted under the Succession Certificate Act, 1889, or — of 1889

(v) a certificate granted under Bombay Regulation No VIII of 1827, and, if granted after the first day of May, 1889, having the debt specified therein

(2) The word "debt" in sub section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes

215 (1) A grant of probate or letters of administration in respect of an estate shall be deemed to supersede any certificate previously granted under Part X or under the Succession Certificate Act 1889, or Bombay Regulation No VIII of 1827, in respect of any debts or securities included in the estate — Effect on certificate of subsequent probate or letters of administration — of 1889

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of any such certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding

Provided that, when any certificate is superseded under this section, all payments made to the holder of such certificate in ignorance of such supersession shall be held good against claims under the probate or letters of administration

216 After any grant of probate or letters of administration no other than the person to whom the same may have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the province in which the same may have been granted until such probate or letters of administration has or have been recalled or revoked — Grantee of probate or administration alone to sue, etc, until same revoked

PART IX.

Probate, Letters of Administration and Administration of Assets of Deceased.

217 Save as otherwise provided by this Act or by any other law for the time being in force all grants of probate and letters of administration with the will annexed and the administration of the assets — Application of Part.

of the deceased in cases of intestate succession shall be made or carried out, as the case may be, in accordance with the provisions of this Part.

CHAPTER I.

OF GRANT OF PROBATE AND LETTERS OF ADMINISTRATION.

To whom administration may be granted, where deceased is a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.

218. (*1*) If the deceased has died intestate and was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

(*2*) When several such persons apply for such administration, it shall be in the discretion of the Court to grant it to any one or more of them.

(*3*) When no such person applies, it may be granted to a creditor of the deceased.

Where deceased is not a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.

219. If the deceased has died intestate and was not a person belonging to any of the classes referred to in section 218, those who are connected with him, either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated, namely :—

(*a*) If the deceased has left a widow, administration shall be granted to the widow, unless the Court sees cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.—

Illustrations.

(*i*) The widow is a lunatic or has committed adultery or has been barred by her marriage settlement of all interest in her husband's estate. There is cause for excluding her from the administration.

(*ii*) The widow has married again since the decease of her husband. This is not good cause for her exclusion.

(*b*) If the Judge thinks proper, he may associate any person or persons with the widow in the administration who would be entitled solely to the administration if there were no widow.

(*c*) If there is no widow, or if the Court sees cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate :

Part IX —Probate, Letters of Administration and Administration of Assets of deceased)

Provided that, when the mother of the deceased is one of the class of persons so entitled, she shall be solely entitled to administration

(*d*) Those who stand in equal degree of kindred to the deceased are equally entitled to administration

(*e*) The husband surviving his wife has the same right of administration of her estate as the widow has in respect of the estate of her husband

(*f*) When there is no per on connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor

(*g*) Where the deceased has left property in British India, letters of administration shall be granted according to the foregoing rules, notwithstanding that he had his domicile in a country in which the law relating to testate and intestate succession differs from the law of British India

220. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death — Effect of letters of administration.

221. Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate — Acts not validated by administration

222. (*1*) Probate shall be granted only to an executor appointed by the will — Probate only to appointed executor

(*2*) The appointment may be expressed or by necessary implication

Illustrations

Act XVII 1931

2. After the word "mind" in sections 2 ... Succession Act, 1925, the following wor... "nor to any association of indivi... which satisfies the conditions p... by the Governor General in Counc...

[illegible]

[1] The text of the sec... was ... by s. 2 of the Indian Succession (Amendment) Act, 1927 (18 of 1927).

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

Separate probate of codicil discovered after grant of probate.

225. (1) If a codicil is discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the will.

(2) If different executors are appointed by the codicil, the probate of the will shall be revoked, and a new probate granted of the will and the codicil together.

Accrual of representation to surviving executor.

226. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Effect of probate.

227. Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Administration, with copy annexed, of authenticated copy of will proved abroad.

228. When a will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the Province, whether within or beyond the limits of His Majesty's dominions, and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed.

Grant of administration where executor has not renounced.

229. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship :

Provided that, when one or more of several executors have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Form and effect of renunciation of executorship.

230. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the will appointing him executor.

Procedure where executor renounces or fails to accept within time limited.

231. If an executor renounces, or fails to accept an executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration, with a copy of the will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

232. When—

Grant of administration to universal or residuary legatees.

(*a*) the deceased has made a will, but has not appointed an executor, or

(*b*) the deceased has appointed an executor who is legally incapable or refuses to act, or who has died before the testator or before he has proved the will, or

(*c*) the executor dies after having proved the will, but before he has administered all the estate of the deceased,

an universal or a residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

233. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such residuary legatee.

Right to administration of representative of deceased residuary legatee.

234. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly.

Grant of administration where no executor, nor residuary legatee nor representative of such legatee.

2. After the word "mind" in sections 223 [illegible]

Succession Act, 1925, the following words [illegible]

"nor to any association of individual [illegible]

which satisfies the conditions presc[illegible]

by the Governor General in Council 1

(Act XVII (1931))

[illegible]

237. When a will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the will has been preserved, probate

Probate of copy or draft of lost will.

1 See footnote to s. 223.

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

Separate probate of codicil discovered after grant of probate.

225. (*1*) If a codicil is discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the will.

(*2*) If different executors are appointed by the codicil, the probate of the will shall be revoked, and a new probate granted of the will and the codicil together.

Accrual of representation to surviving executor.

226. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Effect of probate.

227. Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Administration, with copy annexed, of authenticated copy of will proved abroad.

228. When a will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the Province, whether within or beyond the limits of His Majesty's dominions, and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed.

Grant of administration where executor has not renounced.

229. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship:

Provided that, when one or more of several executors have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Form and effect of renunciation of executorship.

230. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the will appointing him executor.

Procedure where executor renounces or fails to accept within time limited.

231. If an executor renounces, or fails to accept an executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration, with a copy of the will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

232. When— *Grant of administration to universal or residuary legatees.*

(a) the deceased has made a will, but has not appointed an executor, or

(b) the deceased has appointed an executor who is legally incapable or refuses to act, or who has died before the testator or before he has proved the will, or

(c) the executor dies after having proved the will, but before he has administered all the estate of the deceased,

an universal or a residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

233. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such residuary legatee. *Right to administration of representative of deceased residuary legatee.*

234. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly. *Grant of administration where no executor, nor residuary legatee nor representative of such legatee.*

2. After the word "mind" in sections 223 [illegible]
Succession Act, 1925, the following words [illegible]
"nor to any association of individual[illegible]
which satisfies the conditions presc[illegible]
by the Governor General in Council 1[illegible]

(Act XVII 1931)

Grants limited in duration.

237. When a will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the will has been preserved, probate *Probate of copy or draft of lost will.*

1 See footnote to s. 223.

may be granted of such copy or draft, limited until the original or a properly authenticated copy of it is produced.

Probate of contents of lost or destroyed will.

238. When a will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents if they can be established by evidence.

Probate of copy where original exists.

239. When the will is in the *possession of a person residing out of* the province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the will or an authenticated copy of it is produced.

Administration until will produced.

240. Where no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy of it is produced.

Grants for the use and benefit of others having right.

Administration, with will annexed, to attorney of absent executor.

241. When any executor is absent from the province in which application is made, and there is no executor within the province willing to act, letters of administration, with the will annexed, may be granted to the attorney or agent of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with will annexed, to attorney of absent person who, if present, would be entitled to administer.

242. When any person to whom, if present, letters of administration, with the will annexed, might be granted, is absent from the province, letters of administration, with the will annexed, may be granted to his attorney or agent, limited as mentioned in section 241.

Administration to attorney of absent person entitled to administer in case of intestacy.

243. When a person entitled to administration in case of intestacy is absent from the province, and no person equally entitled is willing to act, letters of administration may be granted to the attorney or agent of the absent person, limited as mentioned in section 241.

Administration during minority of

244. When a minor is sole executor or sole residuary legatee, letters of administration, with the will annexed, may be granted to the legal guardian of such minor or to such other person as the Court may think

fit until the minor has attained his majority at which period, and not before probate of the will shall be granted to him.

Sole executor or residuary legatee.

245. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have attained his majority.

Administration during minority of several executors or residuary legatees.

246. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates applicable in the case of the deceased, is a minor or lunatic, letters of administration, with or without the will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or, if there is no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the minor or lunatic until he attains majority or becomes of sound mind, as the case may be.

Administration for use and benefit of lunatic or minor.

247. Pending any suit touching the validity of the will of a deceased person or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

Administration pendente lite.

Grants for special purposes

248. If an executor is appointed for any limited purpose specified in the will, the probate shall be limited to that purpose, and if he should appoint an attorney or agent to take administration on his behalf, the letters of administration, with the will annexed, shall be limited accordingly.

Probate limited to purpose specified in will.

249. If an executor appointed generally gives an authority to an attorney or agent to prove a will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the will annexed shall be limited accordingly.

Administration, with will annexed, limited to particular purpose.

250. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration limited to such property may be granted to the beneficiary, or to some other person on his behalf.

Administration limited to property in which person has beneficial interest.

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

Administration limited to suit.

251. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to purpose of becoming party to suit to be brought against administrator.

252. If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the province within which the Court which has granted the probate or letters of administration exercises jurisdiction, the Court may grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to collection and preservation of deceased's property.

253. In any case in which it appears necessary for preserving the property of a deceased person, the Court within whose jurisdiction any of the property is situate may grant to any person, whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased and to the giving of discharges for debts due to his estate, subject to the directions of the Court.

Appointment, as administrator, of person other than one who, in ordinary circumstances, would be entitled to administration.

254. (*1*) When a person has died intestate, or leaving a will of which there is no executor willing and competent to act or where the executor is, at the time of the death of such person, resident out of the province, and it appears to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who, in ordinary circumstances, would be entitled to a grant of administration, the Court may, in its discretion, having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as it thinks fit to be administrator.

(*2*) In every such case letters of administration may be limited or not as the Court thinks fit.

Grants with exception.

Probate or administration, with will annexed, subject to exception.

255. Whenever the nature of the case requires that an exception be made, probate of a will, or letters of administration with the will annexed, shall be granted subject to such exception.

256 Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception. Administration with exception

Grants of the rest

257. Whenever a grant with exception of probate, or of letters of administration with or without the will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate. Probate or administration of rest

Grant of effects unadministered

258. If an executor to whom probate has been granted has died, leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate. Grant of effects unadministered

259. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made. Rules as to grants of effects unadministered

260. When a limited grant has expired by efflux of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made. Administration when limited grant expired and still some part of estate unadministered

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CHAPTER III

ALTERATION AND REVOCATION OF GRANTS

261. Errors in names and descriptions or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly. What errors may be rectified by Court

262. If, after the grant of letters of administration with the will annexed, a codicil is discovered, it may be added to the grant on due proof and identification, and the grant may be altered and amended accordingly. Procedure where codicil discovered after grant of administration with will annexed

Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the Local Government has, by a notification in the local official Gazette, authorised it so to do.

265. (1) The High Court may appoint such judicial officers within any district as it thinks fit to act for the District Judge as Delegates to grant probate and letters of administration in non-contentious cases, within such local limits as it may prescribe: *Power to appoint Delegate of District Judge to deal with non-contentious cases.*

Provided that, in the case of High Courts not established by Royal Charter, such appointment shall not be without the previous sanction of the Local Government.

(2) Persons so appointed shall be called "District Delegates."

266. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any civil suit or proceeding pending in his Court. *District Judge's powers as to grant of probate and administration.*

267. (1) The District Judge may order any person to produce and bring into Court any paper or writing, being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person. *District Judge may order person to produce testamentary papers.*

(2) If it is not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same.

(3) Such person shall be bound to answer truly such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit and had made such default.

(4) The costs of the proceeding shall be in the discretion of the Judge.

268. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, save as hereinafter otherwise provided, be regulated, so far as the circumstances
3 of the case permit, by the Code of Civil Procedure, 1908. *Proceedings of District Judge's Court in relation to probate and administration.*

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

When and how District Judge to interfere for protection of property.

269. (*1*) Until probate is granted of the will of a deceased person, or an administrator of his estate is constituted, the District Judge, within whose jurisdiction any part of the property of the deceased person is situate, is authorised and required to interfere for the protection of such property at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he thinks fit, to appoint an officer to take and keep possession of the property.

(*2*) This section shall not apply when the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, nor shall it apply to any part of the property of an Indian Christian who has died intestate.

When probate or administration may be granted by District Judge.

270. Probate of the will or letters of administration to the estate of a deceased person may be granted by a District Judge under the seal of his Court, if it appears by a petition, verified as hereinafter provided, of the person applying for the same that the testator or intestate, as the case may be, at the time of his decease had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

Disposal of application made to Judge of district in which deceased had no fixed abode.

271. When the application is made to the Judge of a district in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another district, or, where the application is for letters of administration, to grant them absolutely, or limited to the property within his own jurisdiction.

Probate and letters of administration may be granted by Delegate.

272. Probate and letters of administration may, upon application for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition, verified as hereinafter provided, that the testator or intestate, as the case may be, at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

Conclusiveness of probate or letters of administration.

273. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the province in which the same is or are granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors, paying their debts and all persons delivering up such property to the person to whom such probate or letters of administration have been granted:

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

Provided that probates and letters of administration granted—

(a) by a High Court, or

(b) by a District Judge, where the deceased at the time of his death had a fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India.

274. (1) Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 273, the High Court or District Judge shall send a certificate thereof to the following Courts, namely:— Transmission to High Courts of certificate of grants under proviso to section 273.

(a) when the grant has been made by a High Court, to each of the other High Courts;

(b) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(2) Every certificate referred to in sub-section (1) shall be made as nearly as circumstances admit in the form set forth in Schedule IV, and such certificate shall be filed by the High Court receiving the same.

(3) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 276 and 278, to be situate within the jurisdiction of a District Judge in another province, the Court required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same.

275. The application for probate or letters of administration, if made and verified in the manner hereinafter provided, shall be conclusive for the purpose of authorising the grant of probate or administration; and no such grant shall be impeached by reason only that the testator or intestate had no fixed place of abode or no property within the district at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court. Conclusiveness of application for probate or administration if properly made and verified.

276. (1) Application for probate or for letters of administration, with the will annexed, shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the will or, in the cases mentioned Petition for probate.

in sections 237, 238, and 239, a copy, draft, or statement of the contents thereof, annexed, and stating—

(*a*) the time of the testator's death,

(*b*) that the writing annexed is his last will and testament,

(*c*) that it was duly executed,

(*d*) the amount of assets which are likely to come to the petitioner's hands, and

(*e*) when the application is for probate, that the petitioner is the executor named in the will.

(*2*) In addition to these particulars, the petition shall further state,—

(*a*) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and

(*b*) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(*3*) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another province, the petition shall further state the amount of such assets in each province and the District Judges within whose jurisdiction such assets are situate.

In what cases translation of will to be annexed to petition. Verification of translation by person other than Court translator.

277. In cases wherein the will, copy or draft, is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or, if the will, copy or draft, is in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner, namely:—

"I (*A. B.*) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

Petition for letters of administration.

278. (*1*) Application for letters of administration shall be made by petition distinctly written as aforesaid and stating—

(*a*) the time and place of the deceased's death;

(*b*) the family or other relatives of the deceased, and their respective residences;

(*c*) the right in which the petitioner claims;

(*d*) the amount of assets which are likely to come to the petitioner's hands;

(*e*) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and

(*f*) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(*2*) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another province, the petition shall further state the amount of such assets in each province and the District Judges within whose jurisdiction such assets are situate.

Addition to statement in petition, etc., for probate or letters of administration in certain cases.

279. (*1*) Every person applying to any of the Courts mentioned in the proviso to section 273 for probate of a will or letters of administration of an estate intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 276 and section 278, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(*2*) The Court to which any such application is made under the proviso to section 273 may, if it thinks fit, reject the same.

Petition for probate, etc., to be signed and verified.

280. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner, namely:—

"I (*A. B.*), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

Verification of petition for probate by one witness to will.

281. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the will (when procurable) in the manner or to the effect following, namely:—

"I (*C. D.*), one of the witnesses to the last will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (or mark)

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thereto *(or* that the said testator acknowledged the writing annexed to the above petition to be his last will and testament in my presence)".

Punishment for false averment in petition or declaration.

282. If any petition or declaration which is hereby required to be verified contains any averment which the person making the verification knows or believes to be false, such person shall be deemed to have committed an offence under section 193 of the Indian Penal Code. XL 186[illegible]

Powers of District Judge.

283. *(1)* In all cases the District Judge or District Delegate may, if he thinks proper,—

(a) examine the petitioner in person, upon oath;

(b) require further evidence of the due execution of the will or the right of the petitioner to the letters of administration, as the case may be;

(c) issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

(2) The citation shall be fixed up in some conspicuous part of the court-house, and also in the office of the Collector of the district and otherwise published or made known in such manner as the Judge or District Delegate issuing the same may direct.

(3) Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself, and shall certify such publication to the District Judge who issued the citation.

Caveats against grant of probate or administration.

284. *(1)* Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate.

(2) Immediately on any caveat being lodged with any District Delegate, he shall send copy thereof to the District Judge.

(3) Immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased had a fixed place of abode at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.

Form of caveat.

(4) The caveat shall be made as nearly as circumstances admit in the form set forth in Schedule V.

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After entry of caveat no proceeding taken on petition until after notice to caveator.

285. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge or District Delegate to whom the application has been made or notice has been given of its entry with some other Delegate, until after such notice to the person by whom the same has been entered as the Court may think reasonable.

District Delegate when not to grant probate or administration.

286. A District Delegate shall not grant probate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court.

Explanation.—"Contention" means the appearance of any one in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf, to oppose the proceeding.

Power to transmit statement to District Judge in doubtful cases where no contention.

287. In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the Judge.

Procedure where there is contention, or where District Delegate thinks probate or letters of administration should be refused in his Court.

288. In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents which may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge, unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorised to do; and in that case the same shall be sent by him to the District Judge.

Grant of probate to be under seal of Court.

289. When it appears to the District Judge or District Delegate that probate of a will should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VI.

Grant of letters of administration to be under seal of Court.

290. When it appears to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the will annexed, should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VII.

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Administration bond.

291. (*1*) Every person to whom any grant of letters of administration, other than a grant under section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct.

(*2*) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person—

(*a*) the exception made by sub-section (*1*) in respect of a grant under section 241 shall not operate;

(*b*) the District Judge may demand a like bond from any person to whom probate is granted.

Assignment of administration bond.

292. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his or their own name or names as if the same had been originally given to him or them instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustees for all persons interested, the full amount recoverable in respect of any breach thereof.

Time for grant of probate and administration.

293. No probate of a will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

Filing of original wills of which probate or administration with will annexed granted.

294. (*1*) Every District Judge, or District Delegate, shall file and preserve all original wills, of which probate or letters of administration with the will annexed may be granted by him, among the records of his Court, until some public registry for wills is established.

(*2*) The Local Government shall make regulations for the preservation and inspection of the wills so filed.

Procedure in contentious cases.

295. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, 1908, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who has appeared to oppose the grant shall be the defendant.

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296. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant. **Surrender of revoked probate or letters of administration.**

(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

297. When a grant of probate or letters of administration is revoked, all payments *bona fide* made to any executor or administrator under such grant before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who has acted under any such revoked grant may retain and reimburse himself in respect of any payments made by him which the person to whom probate or letters of administration may afterwards be granted might have lawfully made. **Payment to executor or administrator before probate or administration revoked.**

298. Notwithstanding anything hereinbefore contained, it shall, where the deceased was a Muhammadan, Buddhist or exempted person, or a Hindu, Sikh or Jaina to whom section 57 does not apply, be in the discretion of the Court to make an order refusing, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act. **Power to refuse *letters of* administration.**

299. Every order made by a District Judge by virtue of the powers hereby conferred upon him shall be subject to appeal to the High Court in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals. **Appeals from orders of District Judge.**

300. (1) The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge. **Concurrent jurisdiction of High Court.**

(2) Except in cases to which section 57 applies, no High Court, in exercise of the concurrent jurisdiction hereby conferred over any local area beyond the limits of the towns of Calcutta, Madras and Bombay, and the province of Burma, shall, where the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the Local Government has, by a notification in the local official Gazette, authorised it so to do.

Removal of executor or administrator and provision for successor.

301. The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate.

Directions to executor or administrator.

302. Where probate or letters of administration in respect of any estate has or have been granted under this Act, the High Court may, on application made to it, give to the executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof.

CHAPTER V.

OF EXECUTORS OF THEIR OWN WRONG.

Executor of his own wrong.

303. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Exceptions.—(1) Intermeddling with the goods of the deceased for the purpose of preserving them or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

(2) Dealing in the ordinary course of business with goods of the deceased received from another does not make an executor of his own wrong.

Illustrations.

(*i*) A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy or receives payment of the debts of the deceased. He is an executor of his own wrong.

(*ii*) A, having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(*iii*) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

Liability of executor of his own wrong.

304. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands after deducting payments made to the rightful executor or administrator, and payments made in due course of administration.

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CHAPTER VI

OF THE POWERS OF AN EXECUTOR OR ADMINISTRATOR

305. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same power for the recovery of debts as the deceased had when living. *In respect of causes of action surviving deceased and rents due at death.*

306. All demands whatsoever and all rights to prosecute or defend any action or special proceeding existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators, except causes of action for defamation, assault, as defined in the Indian Penal Code, or other personal injuries not causing the death of the party, and except also cases where, after the death of the party, the relief sought could not be enjoyed or granting it would be nugatory. *Demands and rights of action of or against deceased survive to and against executor or administrator.*

Illustrations

(i) A collision takes place on a railway in consequence of some neglect or default of an official, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(ii) A sues for divorce. A dies. The cause of action does not survive to his representative.

307. (1) Subject to the provisions of sub-section (2), an executor or administrator has power to dispose of the property of the deceased, vested in him under section 211, either wholly or in part, in such manner as he may think fit. *Power of executor or administrator to dispose of property.*

Illustrations

(i) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(ii) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

(2) If the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, the general power conferred by sub-section (1) shall be subject to the following restrictions and conditions, namely:—

(i) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

(ii) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(*a*) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 211, or

(*b*) lease any such property for a term exceeding five years.

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii), as the case may be, is voidable at the instance of any other person interested in the property.

(*3*) Before any probate or letters of administration is or are granted in such a case, there shall be endorsed thereon or annexed thereto a copy of sub-section (*1*) and clauses (i) and (iii) of sub-section (*2*) or of sub-section (*1*) and clauses (ii) and (iii) of sub-section (*2*), as the case may be.

(*4*) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by sub-section (*3*) not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.

General powers of administration.

308. An executor or administrator may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

(*a*) on such acts as may be necessary for the proper care or management of any property belonging to any estate administered by him, and

(*b*) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

Commission or agency charges.

309. An executor or administrator shall not be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1913. III of 19

Purchase by executor or administrator of deceased's property.

310. If any executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

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311. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the will or taken out administration. *Powers of several executors or administrators exercisable by one*

Illustrations

(i) One of several executors has power to release a debt due to the deceased.
(ii) One has power to surrender a lease.
(iii) One has power to sell the property of the deceased whether moveable or immoveable.
(iv) One has power to assent to a legacy.
(v) One has power to endorse a promissory note payable to the deceased.
(vi) The will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

312. Upon the death of one or more of several executors or administrators, in the absence of any direction to the contrary in the will or grant of letters of administration, all the powers of the office become vested in the survivors or survivor. *Survival of powers on death of one of several executors or administrators*

313. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator. *Powers of administrator of effects unadministered*

314. An administrator during minority has all the powers of an ordinary administrator. *Powers of administrator during minority*

315. When a grant of probate or letters of administration has been made to a married woman, she has all the powers of an ordinary executor or administrator. *Powers of married executrix or administratrix*

CHAPTER VII

OF THE DUTIES OF AN EXECUTOR OR ADMINISTRATOR

316. It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose. *As to deceased's funeral*

317. (*1*) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may appoint, *Inventory and account*

323. Save as aforesaid, no creditor shall have a right of priority over another, but the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably as far as the assets of the deceased will extend. Save as aforesaid, all debts to be paid equally and rateably.

324. (*1*) If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of British India. Application of moveable property to payment of debts where domicile not in British India.

(*2*) No creditor who has received payment of a part of his debt by virtue of sub-section (*1*) shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

(*3*) This section shall not apply where the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

Illustration

A dies having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 rupees and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees which are to be distributed rateably amongst all the creditors without distinction, in proportion to the amount which may remain due to them.

325. Debts of every description must be paid before any legacy. Debts to be paid before legacies.

326. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due. Executor or administrator not bound to pay legacies without indemnity.

327. If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and, in the absence of any direction to the contrary in the will, the executor has no right to pay one legatee in preference to another, or to retain any money on account of a legacy to himself or to any person for whom he is a trustee. Abatement of general legacies.

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Non-abatement of specific legacy when assets sufficient to pay debts.

328. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Right under demonstrative legacy when assets sufficient to pay debts and necessary expenses.

329. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Rateable abatement of specific legacies.

330. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

Illustration.

A has bequeathed to B a diamond ring valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator; and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

Legacies treated as general for purpose of abatement.

331. For the purpose of abatement, a legacy for life, a sum appropriated by the will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

CHAPTER VIII.

OF ASSENT TO A LEGACY BY EXECUTOR OR ADMINISTRATOR.

Assent necessary to complete legatee's title.

332. The Assent of the executor or administrator is necessary to complete a legatee's title to his legacy.

Illustrations.

(*i*) A by his will bequeaths to B his Government paper which is in deposit with the Imperial Bank of India. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*ii*) A by his will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor or administrator.

Effect of executor's assent to specific legacy.

333. (*1*) The assent of the executor or administrator to a specific bequest shall be sufficient to divest his interest as executor or administrator therein, and to transfer the subject of the bequest of the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way.

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

Executor when to deliver legacies.

337. An executor or administrator is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Illustration.

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

CHAPTER IX.

OF THE PAYMENT AND APPORTIONMENT OF ANNUITIES.

Commencement of annuity when no time fixed by will.

338. Where an annuity is given by a will and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

When annuity, to be paid quarterly or monthly, first falls due.

339. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor or administrator thinks fit, be paid when due, but the executor or administrator shall not be bound to pay it till the end of the year.

Dates of successive payments when first payment directed to be made within a given time or on day certain: death of annuitant before date of payment.

340. *(1)* Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the will authorises the first payment to be made.

(2) If the annuitant dies in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

CHAPTER X.

OF THE INVESTMENT OF FUNDS TO PROVIDE FOR LEGACIES.

Investment of sum bequeathed where legacy, not specific, given for life.

341. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may by any general rule authorise or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of general legacy, to be paid at future time:

342. *(1)* Where a general legacy is given to be paid at a future time, the executor or administrator shall invest a sum sufficient to meet it in securities of the kind mentioned in section 341.

(2) The intermediate interest shall form part of the residue of the testator's estate.

Disposal of intermediate interest.

343. Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in securities of the kind mentioned in section 341.

Procedure when no fund charged with, or appropriated to, annuity.

344. Where a bequest is contingent, the executor or administrator is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee, if any, on his giving sufficient security for the payment of the legacy if it shall become due.

Transfer to residuary legatee of contingent bequest.

345. (1) Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in securities of the kind mentioned in section 341 shall be converted into money and invested in such securities.

(2) This section shall not apply if the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

Investment of residue bequeathed for life, without direction to invest in particular securities.

346. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Investment of residue bequeathed for life, without direction to invest in specified securities.

347. Such conversion and investment as are contemplated by sections 345 and 346 shall be made at such times and in such manner as the executor or administrator thinks fit; and, until such conversion and investment are completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market-value (to be computed as at the date of the testator's death) of such part of the fund as has not been so invested:

Time and manner of conversion and investment.

Provided that the rate of interest prior to completion of investment shall be six per cent. per annum when the testator was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

Procedure where minor entitled to immediate payment or possession of bequest, and no direction to pay to person on his behalf.

348. (*1*) Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom or by whose District Delegate the probate was, or letters of administration with the will annexed were, granted, to the account of the legatee, unless the legatee is a ward of the Court of Wards.

(*2*) If the legatee is a ward of the Court of Wards, the legacy shall be paid to the Court of Wards to his account.

(*3*) Such payment into the Court of the District Judge, or to the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid.

(*4*) Money when paid in under this section shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

CHAPTER XI.

OF THE PRODUCE AND INTEREST OF LEGACIES.

Legatee's title to produce of specific legacy.

349. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(*i*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn or some of the ewes produce lambs. The wool and lambs are the property of B.

(*ii*) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*iii*) The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he completes that age, is entitled to receive the notes, but the interest which accrues in respect of them between the testator's death and A's completing 18, form part of the residue.

(Part IX—Probate, Letters of Administration and Administration of Assets of deceased)

350. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death. Residuary legatee's title to produce of residuary fund

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations

(i) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(ii) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he completes that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

351. Where no time has been fixed for the payment of a general legacy, interest begins to run from expiration of one year from the testator's death. Interest when no time fixed for payment of general legacy.

Exception.—(1) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

352. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate. Interest when time fixed.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the will for maintenance, or unless the will contains a direction to the contrary.

353. The rate of interest shall be four per cent per annum in all cases except when the testator was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, in which case it shall be six per cent per annum. Rate of interest

354. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity. No interest on arrears of annuity within first year after testator's death.

(Part IX.—Probate, Letters of Administration and Administration of Assets of deceased.)

Interest on sum to be invested to produce annuity.

355. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

CHAPTER XII.

OF THE REFUNDING OF LEGACIES.

Refund of legacy paid under Court's orders.

356. When an executor or administrator has paid a legacy under the order of a Court, he is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.

No refund if paid voluntarily.

357. When an executor or administrator has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.

Refund when legacy has become due on performance of condition within further time allowed under section 137.

358. When the time prescribed by the will for the performance of a condition has elapsed, without the condition having been performed, and the executor or administrator has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under section 137 for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor or administrator, but those to whom he has paid it are liable to refund the amount.

When each legatee compellable to refund in proportion.

359. When the executor or administrator has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

360. Where an executor or administrator has given such notices as the High Court may, by any general rule, prescribe or, if no such rule has been made, as the High Court would give in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution:

Provided that nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may call upon legatee to refund.

361. A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time

of his death to pay both debts and legacies, and whether the payment of the legacy by the executor or administrator was voluntary or not

362. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under section 361, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit although the assets have subsequently become deficient by the wasting of the executor

When legatee not satisfied or compelled to refund under section 361, cannot oblige one paid in full to refund

363 If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy must, before he can call on a satisfied legatee to refund, first proceed against the executor or administrator if he is solvent but if the executor or administrator is insolvent or not liable to pay the unsatisfied legatee can oblige each satisfied legatee to refund in proportion

When unsatisfied legatee must first proceed against executor if solvent

364. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered

Limit to refunding of one legatee to another

Illustration

A has bequeathed 240 rupees to B, 480 rupees to C and 720 rupees to D The assets are only 1,200 rupees and, if properly administered would give 200 rupees to B, 400 rupees to C and 600 rupees to D C and D have been paid their legacies in full leaving nothing to B B can oblige C to refund 80 rupees and D to refund 120 rupees.

365. The refunding shall in all cases be without interest

Refunding to be without interest

366. The surplus or residue of the deceased's property, after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the will

Residue after usual payments to be paid to residuary legatee

367. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 360, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may,

Transfer of assets from British India to executor or administrator in country of domicile for distribution

instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

CHAPTER XIII.

OF THE LIABILITY OF AN EXECUTOR OR ADMINISTRATOR FOR DEVASTATION.

Liability of executor or administrator for devastation.

368. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Illustrations.

(*i*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(*ii*) The deceased had a valuable lease renewable by notice which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(*iii*) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

Liability of executor or administrator for neglect to get any part of property.

369. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

(*i*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(*ii*) The executor neglects to sue for a debt till the debtor is able to plead that the claim is barred by limitation and the debt is thereby lost to the estate. The executor is liable to make good the amount.

PART X.

Succession Certificates.

Restriction on grant of ertificates under this Part.

370. (*1*) A succession certificate (hereinafter in this Part referred to as a certificate) shall not be granted under this Part with respect to any debt or security to which a right is required by section 212 or section 213 to be established by letters of administration or probate :

Provided that nothing contained in this section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Indian Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under this Act.

(*Part X —Succession Certificates*)

(2) For the purposes of this Part, "security" means—

(*a*) any promissory note, debenture, stock or other security of the Government of India or of a Local Government,

(*b*) any bond, debenture, or annuity charged by Act of Parliament on the revenues of India,

(*c*) any stock or debenture of, or share in, a company or other incorporated institution,

(*d*) any debenture or other security for money issued by, or on behalf of, a local authority,

e) any other security which the Governor General in Council may, by notification in the Gazette of India, declare to be a security for the purposes of this Part

371. The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found may grant a certificate under this Part

Court having jurisdiction to grant certificate

372 (*1*) Application for such a certificate shall be made to the District Judge by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure, 1908, for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely

Application for certificate

of 1908

(*a*) the time of the death of the deceased

(*b*) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Judge to whom the application is made, then the property of the deceased within those limits,

(*c*) the family or other near relatives of the deceased and their respective residences,

(*d*) the right in which the petitioner claims,

(*e*) the absence of any impediment under section 370 or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted and

(*f*) the debts and securities in respect of which the certificate is applied for

(2) If the petition contains any averment which the person verifying

2. After sub-section (2) of section 372 of the Indian Succession Act, 1925, the following sub-section shall be added, namely —

Amendment of sect. 372, Act XXXIX of 1925

XXXIX of 1925

" (3) Application for such a certificate may be made in respect of any debt or debts due to the deceased creditor or in respect of portions thereof "

Procedure on application.

373. (*1*) If the District Judge is satisfied that there is ground for entertaining the application, he shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

(*a*) to be served on any person to whom, in the opinion of the Judge, special notice of the application should be given, and

(*b*) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Judge, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(*2*) When the Judge decides the right thereto to belong to the applicant, the Judge shall make an order for the grant of the certificate to him.

(*3*) If the Judge cannot decide the right to the certificate without determining questions of law or fact which seem to be too intricate and difficult for determination in a summary proceeding, he may nevertheless grant a certificate to the applicant if he appears to be the person having *primâ facie* the best title thereto.

(*4*) When there are more applicants than one for a certificate, and it appears to the Judge that more than one of such applicants are interested in the estate of the deceased, the Judge may, in deciding to whom the certificate is to be granted, have regard to the extent of interest and the fitness in other respects of the applicants.

Contents of certificate.

374. When the District Judge grants a certificate, he shall therein specify the debts and securities set forth in the application for the certificate, and may thereby empower the person to whom the certificate is granted—

(*a*) to receive interest or dividends on, or

(*b*) to negotiate or transfer, or

(*c*) both to receive interest or dividends on, and to negotiate or transfer,

the securities or any of them.

Requisition of security from grantee of certificate.

375. (*1*) The District Judge shall in any case in which he proposes to proceed under sub-section (*3*) or sub-section (*4*) of section 373, and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom he proposes to make the grant shall give to the Judge a bond with one or more surety or sureties, or

other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Judge may, on application made by petition and on cause shown to his satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as he thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

Extension of certificate.

376. (1) A District Judge may, on the application of the holder of a certificate under this Part, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in section 375 may be required, in the same manner as upon the original grant of a certificate.

Forms of certificate and extended certificate.

377. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in Schedule VIII.

Amendment of certificate in respect of powers as to securities.

378. Where a District Judge has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Judge may, on application made by petition and on cause shown to his satisfaction, amend the certificate by conferring any of the powers mentioned in section 374 or by substituting any one for any other of those powers.

Mode of collecting Court-fees on certificates.

379. (1) Every application for a certificate or for the extension of a certificate shall be accompanied by a deposit of a sum equal to the fee payable under the Court-fees Act, 1870, in respect of the certificate or extension applied for. VII of 1870.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Judge, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

(*Part X.—Succession Certificates.*)

Local extent of certificate.

380. A certificate under this Part shall have effect throughout the whole of British India.

Effect of certificate.

381. Subject to the provisions of this Part, the certificate of the District Judge shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 370, or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate granted or extended by British representative in Foreign State.

382. Where a certificate in the form, as nearly as circumstances admit, of Schedule VIII has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under VII
this Part, have the same effect in British India as a certificate granted or extended under this Part.

Revocation of certificate.

383. A certificate granted under this Part may be revoked for any of the following causes, namely :—

(*a*) that the proceedings to obtain the certificate were defective in substance;

(*b*) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;

(*c*) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;

(*d*) that the certificate has become useless and inoperative through circumstances;

(*e*) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

384. (*1*) Subject to the other provisions of this Part, an appeal shall lie to the High Court from an order of a District Judge granting, refusing or revoking a certificate under this Part, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the

certificate should be granted and direct the District Judge, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure 1908 (V of 1908)

(3) Subject to the provisions of sub section (1) and to the provisions as to reference to and revision by the High Court and as to review of judgment of the Code of Civil Procedure, 1908, as applied by section 141 of that Code, an order of a District Judge under this Part shall be final (V of 1908)

Effect on certificate of previous certificate, probate or letters of administration

385 Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force

Validation of certain payments made in good faith to holder of invalid certificate

386 Where a certificate under this Part has been superseded or is invalid by reason of the certificate having been revoked under section 383, or by reason of the grant of a certificate to a person named in an appellate order under section 384, or by reason of a certificate having been previously granted, or for any other cause all payments made or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate

Effect of decisions under this Act, and liability of holder of certificate thereunder

387. No decision under this Part upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Part shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

388. (1) The Local Government may, by notification in the local official Gazette, invest any Court inferior in grade to a District Judge with power to exercise the functions of a District Judge under this Part

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Judge in the exercise of all the powers conferred by this Part upon the District Judge, and the provisions of this Part relating to the District Judge shall apply to such an inferior Court as if it were a District Judge

(*Part X.—Succession Certificates.*)

Local extent of certificate.

380. A certificate under this Part shall have effect throughout the whole of British India.

Effect of certificate.

381. Subject to the provisions of this Part, the certificate of the District Judge shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 370, or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate granted or extended by British representative in Foreign State.

382. Where a certificate in the form, as nearly as circumstances admit, of Schedule VIII has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Part, have the same effect in British India as a certificate granted or extended under this Part. VII

Revocation of certificate.

383. A certificate granted under this Part may be revoked for any of the following causes, namely :—

(*a*) that the proceedings to obtain the certificate were defective in substance;

(*b*) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;

(*c*) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;

(*d*) that the certificate has become useless and inoperative through circumstances;

(*e*) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

384. (*1*) Subject to the other provisions of this Part, an appeal shall lie to the High Court from an order of a District Judge granting, refusing or revoking a certificate under this Part, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the

(Part X —Succession Certificates.)

certificate should be granted and direct the District Judge, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure, 1908. V of 1908

(3) Subject to the provisions of sub section (1) and to the provisions as to reference to and revision by the High Court and as to review of judgment of the Code of Civil Procedure, 1908, as applied by section 141 of that Code, an order of a District Judge under this Part shall be final. V of 1908

Effect on certificate of previous certificate, probate or letters of administration.

385. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Validation of certain payments made in good faith to holder of invalid certificate.

386. Where a certificate under this Part has been superseded or is invalid by reason of the certificate having been revoked under section 383, or by reason of the grant of a certificate to a person named in an appellate order under section 384, or by reason of a certificate having been previously granted, or for any other cause, all payments made or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate.

Effect of decisions under this Act and liability of holder of certificate thereunder.

387. No decision under this Part upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Part shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

388. (1) The Local Government may, by notification in the local official Gazette, invest any Court inferior in grade to a District Judge with power to exercise the functions of a District Judge under this Part.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Judge in the exercise of all the powers conferred by this Part upon the District Judge, and the provisions of this Part relating to the District Judge shall apply to such an inferior Court as if it were a District Judge.

(*Part X.—Succession Certificates.*)

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (*1*) of section 384 shall lie to the District Judge, and not to the High Court, and that the District Judge may, if he thinks fit, by his order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Judge.

(*3*) An order of a District Judge on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions as to reference to and revision by the High Court and as to review of judgment of the Code of Civil Procedure, 1908, as applied V of by section 141 of that Code, be final.

(*4*) The District Judge may withdraw any proceedings under this Part from an inferior Court, and may either himself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Judge and having authority to dispose of the proceedings.

(*5*) A notification under sub-section (*1*) may specify any inferior Court specially or any class of such Courts in any local area.

(*6*) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Judge shall, for the purposes of this section, be deemed to be a Court inferior in grade to a District Judge.

Surrender of superseded and invalid certificates.

389. (*1*) When a certificate under this Part has been superseded or is invalid from any of the causes mentioned in section 386, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(*2*) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

Provisions with respect to certificates under Bombay Regulation, VIII of 1827.

390. Notwithstanding anything in Bombay Regulation No. VIII of 1827, the provisions of section 370, sub-section (*2*), section 372, sub-section (*1*), clause (*f*), and sections 374, 375, 376, 377, 378, 379, 381, 383, 384, 387, 388 and 389 with respect to certificates under this Part and applications therefor, and of section 317 with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the 1st day of May, 1889, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

PART XI.

Miscellaneous.

Savings.

391. Nothing in Part VIII, Part IX or Part X shall—

(i) validate any testamentary disposition which would otherwise have been invalid;

(ii) invalidate any such disposition which would otherwise have been valid;

(iii) deprive any person of any right of maintenance to which he would otherwise have been entitled; or

III of 1913.

(iv) affect the Administrator General's Act, 1913

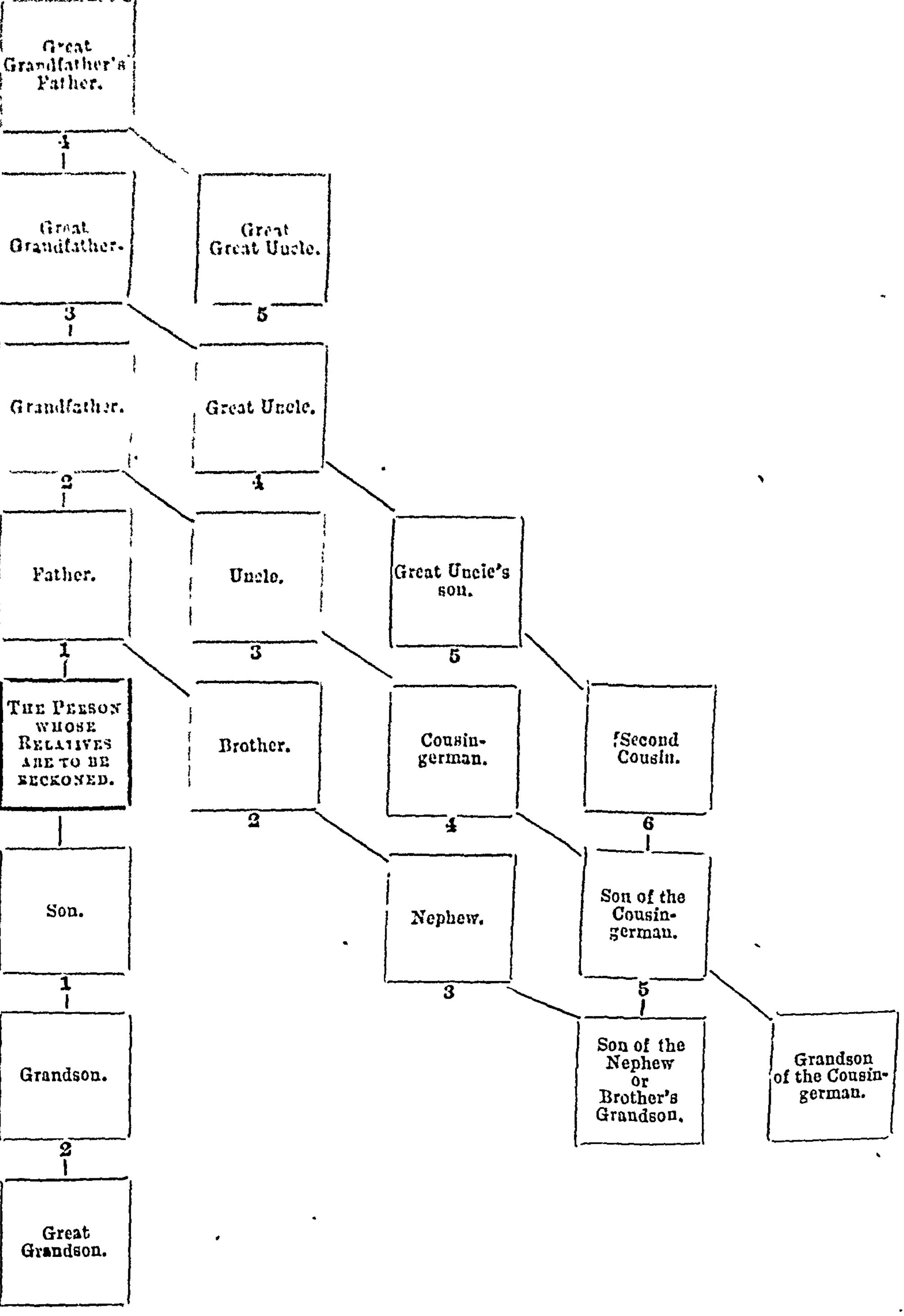
392. [*Repeals.*] *Repealed by the Repealing Act, 1927 (12 of 1927)*

(*Schedule I.*)

SCHEDULE I.

(*See section 28.*)

TABLE OF CONSANGUINITY.



(Schedule II.)

SCHEDULE II.

PART I.

(See section 55)

(1) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the intestate

(2) Grandfather and grandmother

(3) Grandfather's sons and daughters, and the lineal descendants of such of them as have predeceased the intestate

(4) Great-grandfather and great-grandmother

(5) Great-grandfather's sons and daughters and the lineal descendants of such of them as have predeceased the intestate

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PART II

(See section 56)

(1) Father and mother

(2) Brothers and sisters and the lineal descendants of such of them as have predeceased the intestate

(3) Paternal grandfather and paternal grandmother

(4) Children of the paternal grandfather, and the lineal descendants of such of them as have predeceased the intestate

(5) Paternal grandfather's father and mother

(6) Paternal grandfather's father's children and the lineal descendants of such of them as have predeceased the intestate

(7) Brothers and sisters by the mother's side and the lineal descendants of such of them as have predeceased the intestate

(8) Maternal grandfather and maternal grandmother.

(9) Children of the maternal grandfather, and the lineal descendants of such of them as have predeceased the intestate.

(10) Son's widow, if she has not re-married at or before the death of the intestate.

(11) Brother's widow, if she has not re-married at or before the death of the intestate.

(12) Paternal grandfather's son's widow, if she has not re-married at or before the death of the intestate.

(*Schedule II. Schedule III.*)

(13) Maternal grandfather's son's widow, if she has not re-married at or before the death of the intestate.

(14) Widowers of the intestate's deceased daughters if they have not re-married at or before the death of the intestate.

(15) Maternal grandfather's father and mother.

(16) Children of the maternal grandfather's father, and the lineal descendants of such of them as have predeceased the intestate.

(17) Paternal grandmother's father and mother.

(18) Children of the paternal grandmother's father, and the lineal descendants of such of them as have predeceased the intestate.

SCHEDULE III.

(*See section 57.*)

PROVISIONS OF PART VI APPLICABLE TO CERTAIN WILLS AND CODICILS DESCRIBED IN SECTION 57.

Sections 59, 61, 62, 63, 64, 68, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 95, 96, 98, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, and 190.

Restrictions and modifications in application of foregoing sections.

1. Nothing therein contained shall authorise a testator to bequeath property which he could not have alienated *inter vivos*, or to deprive any persons of any right of maintenance of which, but for the application of these sections, he could not deprive them by will.

2. Nothing therein contained shall authorise any Hindu, Buddhist, Sikh or Jaina, to create in property any interest which he could not have created before the first day of September, 1870.

3. Nothing therein contained shall affect any law of adoption or intestate succession.

(Schedule III —Schedule IV —Schedule V)

4 In applying section 70 the words "than by marriage or" shall be omitted

5 In applying any of the following sections, namely, sections seventy five, seventy six, one hundred and five, one hundred and nine, one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and fifteen, and one hundred and sixteen to such wills and codicils the words "son," "sons," "child," and children shall be deemed to include an adopted child, and the word "grand children" shall be deemed to include the children, whether adopted or natural born, of a child whether adopted or natural-born and the expression "daughter in law" shall be deemed to include the wife of an adopted son

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SCHEDULE IV

[See section 274 (2)]

FORM OF CERTIFICATE

I, A B , Registrar *(or as the case may be)* of the High Court of Judicature at *(or as the case may be)* hereby certify that on the day of the High Court of Judicature at *(or as the case may be)* granted probate of the will (*or* letters of administration of the estate) of C D late of , deceased to E F of and G H of , and that such probate (*or* letters) has (*or* have) effect over all the property of the deceased throughout the whole of British India

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SCHEDULE V

[See section 284 (4)]

FORM OF CAVEAT

Let nothing be done in the matter of the estate of A B , late of , deceased, who died on the day of at , without notice to C D of .

SCHEDULE VI.

(*See section 289.*)

FORM OF PROBATE.

I, , Judge of the District of [*or* Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)], hereby make known that on the day of in the year , the last will of , late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his will was granted to , the executor in the said will named, he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint.

SCHEDULE VII.

(*See section 290.*)

FORM OF LETTERS OF ADMINISTRATION.

I, , Judge of the District of [*or* Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)], hereby make known that on the day of letters of administration (with or without the will annexed, as the case may be), of the property and credits of , late of , deceased, were granted to , the father (*or* as the case may be) of the deceased, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint.

SCHEDULE VIII.

(*See section 377.*)

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

In the Court of

To *A B*

Whereas you applied on the day of for a certificate under Part X of the Indian Succession Act, 1925, in respect of the following debts and securities, namely :—

Debts

Serial number	Number of debtor	Amount of debt, including interest, on date of application for certificate	Description and date of instrument, if any, by which the debt is secured

Securities

Serial number	Description			Market value of security on date of application for certificate
	Distinguishing number or letter of security	Name, title or class of security	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*]

Dated this day of .

District Judge.

(*Schedule VIII—Schedule IX.*)

In the Court of

On the application of A. B. made to me on the day of , I hereby extend this certificate to the following debts and securities, namely :—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of

District Judge.

[*SCHEDULE IX.*]

[*Enactments Repealed.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

ACT No. I OF 1926.[1]

[24th February, 1926.]

An Act to resolve certain doubts as to the powers, in regard to the attachment of immoveable property, of Provincial Small Cause Courts.

WHEREAS it is expedient further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, for the purpose of resolving certain doubts which have arisen as to the powers, in regard to the attachment of immoveable property, of Courts constituted under the Provincial Small Cause Courts Act, 1887, and of Courts exercising the jurisdiction of a Court of Small Causes under that Act; It is hereby enacted as follows:—

IX of 1887. V of 1908. IX of 1887.

Short title. **1.** This Act may be called the Small Cause Courts (Attachment of Immoveable Property) Act, 1926

Amendment of section 17, Act IX of 1887. **2.** (*1*) In sub-section (*1*) of section 17 of the Provincial Small Cause Courts Act, 1887, for the words beginning with the words "The procedure" and ending with the words "are applicable" the following shall be substituted, namely:— (IX of 1887.)

"The procedure prescribed in the Code of Civil Procedure, 1908, *shall, save in so far as is otherwise provided by that Code* or by this Act " (V of 1908.)

(*2*) In sub-section (*2*) of the same section, for the figures "253" the figures "115" shall be substituted, and after the words "Code of Civil Procedure" the figures "1908" shall be added

Amendment of section 7 Act V of 1908. **3.** In clause (*b*) of section 7 of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), for the words "so far as they relate to injunctions and interlocutory orders" the following shall be substituted, namely:— (V of 1908.)

"so far as they authorise or relate to—

(*i*) orders for the attachment of immoveable property,

(*ii*) injunctions,

(*iii*) the appointment of a receiver of immoveable property, or

(*iv*) the interlocutory orders referred to in clause (*e*) of section 94."

Amendment of Order XXXVIII in the First Schedule to Act V of 1908. **4.** To Order XXXVIII in the First Schedule to the said Code, after rule 12 the following rule shall be added, namely:—

Small Cause Courts not to attach immoveable property. "13. Nothing in this Order shall be deemed to empower any Court of Small Causes to make an order for the attachment of immoveable property."

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[1] For Statement of Objects and Reasons, see Gazette of India, 1925, Pt. V, p. 13[illegible]. The Act has been extended to the district of Ajmer-Merwara so far as it relates to Act 5 of 1908 by Notification under s. 5 of Act 14 of 1874, see Gazette of India, [illegible] Pt. II A, p. 324

ACT No. II OF 1926.[1]

[24th February, 1926.]

An Act further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for the purposes hereinafter appearing; It is hereby enacted as follows:— V of

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1926.

2. [*Amendment of section 170, Act V of 1898.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

Amendment of section 200, Act V of 1898.

3. In proviso (*b*) to section 200 of the said Code, after the words "thinks fit, and" the words "where the complaint is made in writing" shall be inserted.

Amendment of section 202, Act V of 1898.

4. For the proviso to sub-section (*1*) of section 202 of the said Code the following proviso shall be substituted, namely:—

"Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200."

Amendment of section 203, Act V of 1898.

5. In section 203 of the said Code, for the words "any investigation" the words "the investigation" shall be substituted; and after the word "inquiry" the words and brackets "(if any)" shall be inserted.

Amendment of section 476, Act V of 1898.

6. In sub-section (*1*) of section 476 of the said Code,—

(*a*) to the first paragraph the following proviso shall be added, namely:—

"Provided that, where the Court making the complaint is a High Court, the complaint may be signed by such officer of the Court as the Court may appoint."; and

(*b*) in the second paragraph the word "Chief" shall be omitted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 214.

ACT No. III of 1926[1]

[24th February, 1926]

An Act to determine the liability of certain Governments to taxation in British India in respect of trading operations.

WHEREAS it is expedient to determine the liability to taxation for the time being in force in British India of the Government of any part of His Majesty's Dominions exclusive of British India in respect of any trade or business carried on by or on behalf of such Government; It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Government Trading Taxation Act, 1926.

(2) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Liability of certain Governments to taxation in respect of trading operations. 2. (1) Where a trade or business of any kind is carried on by or on behalf of the Government of any part of His Majesty's Dominions, exclusive of British India, that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in British India and all goods owned in British India for the purposes thereof, and all income arising in connection therewith, be liable—

XI of 1922. (a) to taxation under the Indian Income-tax Act, 1922, in the same manner and to the same extent as in the like case a company would be liable;

(b) to all other taxation for the time being in force in British India in the same manner as in the like case any other person would be liable.

XI of 1922. (2) For the purposes of the levy and collection of income-tax under the Indian Income-tax Act, 1922, in accordance with the provisions of sub-section (1), any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly.

(3) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions.

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1 For Statement of Objects and Reasons, see Gazette of India, 19[illegible], Pt. V, p. 227.

2 This Act was brought into force on 1st April 1926, see Gazette of India, Extraordinary, 1926, p. 62.

ACT No. IV of 1926.[1]

[24th February, 1926.]

An Act further to amend the Guardians and Wards Act, 1890.

WHEREAS it is expedient further to amend the Guardians and Wards Act, 1890, for the purposes hereinafter appearing; It is hereby enacted as follows:— VIII of 1890.

Short title.

1. This Act may be called the Guardians and Wards (Amendment) Act, 1926.

Amendment of section 4, Act VIII of 1890.

2. In section 4 of the Guardians and Wards Act, 1890 (hereinafter referred to as the said Act), for clause (5) the following clause shall be substituted, namely:— VII of

"(5) 'the Court' means—

(a) the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian; or

(b) where a guardian has been appointed or declared in pursuance of any such application—

(i) the Court which, or the Court of the officer who, appointed or declared the guardian or is under this Act deemed to have appointed or declared the guardian; or

(ii) in any matter relating to the person of the ward the District Court having jurisdiction in the place where the ward for the time being ordinarily resides; or

(c) in respect of any proceeding transferred under section 4A, the Court of the officer to whom such proceeding has been transferred."

Insertion of new section 4A in Act VIII of 1890.

3. After section 4 of the said Act the following section shall be inserted, namely:—

Power to confer jurisdiction on subordinate judicial officers and to transfer proceedings to such officers.

"4A. (1) The High Court may, by general or special order, empower any officer exercising original civil jurisdiction subordinate to a District Court, or authorise the Judge of any District Court to empower any such officer subordinate to him, to dispose of any proceedings under this Act transferred to such officer under the provisions of this section.

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 11.

ACT No. IV OF 1926.[1]

[24th February, 1926.]

An Act further to amend the Guardians and Wards Act, 1890.

WHEREAS it is expedient further to amend the Guardians and Wards Act, 1890, for the purposes hereinafter appearing; It is hereby enacted as follows:— VIII of 1890.

Short title. 1. This Act may be called the Guardians and Wards (Amendment) Act, 1926.

Amendment of section 4, Act VIII of 1890. 2. In section 4 of the Guardians and Wards Act, 1890 (hereinafter referred to as the said Act), for clause (5) the following clause shall be substituted, namely:— VII of 1890.

"(5) 'the Court' means—

(a) the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian; or

(b) where a guardian has been appointed or declared in pursuance of any such application—

(i) the Court which, or the Court of the officer who, appointed or declared the guardian or is under this Act deemed to have appointed or declared the guardian; or

(ii) in any matter relating to the person of the ward the District Court having jurisdiction in the place where the ward for the time being ordinarily resides; or

(c) in respect of any proceeding transferred under section 4A, the Court of the officer to whom such proceeding has been transferred."

Insertion of new section 4A in Act VIII of 1890. 3. After section 4 of the said Act the following section shall be inserted, namely:—

Power to confer jurisdiction on subordinate judicial officers and to transfer proceedings to such officers. "4A. (1) The High Court may, by general or special order, empower any officer exercising original civil jurisdiction subordinate to a District Court, or authorise the Judge of any District Court to empower any such officer subordinate to him, to dispose of any proceedings under this Act transferred to such officer under the provisions of this section.

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 11.

(2) The Judge of a District Court may, by order in writing, transfer at any stage any proceeding under this Act pending in his Court for disposal to any officer subordinate to him empowered under sub-section *(1)*.

(3) The Judge of a District Court may at any stage transfer to his own Court or to any officer subordinate to him empowered under sub-section *(1)* any proceeding under this Act pending in the Court of any other such officer.

(4) When any proceedings are transferred under this section in any case in which a guardian has been appointed or declared, the Judge of the District Court may, by order in writing, declare that the Court of the Judge or officer to whom they are transferred shall, for all or any of the purposes of this Act, be deemed to be the Court which appointed or declared the guardian."

4. [*Amendment of section 17, Act VIII of 1890.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

5. [*Repeals.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

ACT No. V of 1926.[1]

[24th February, 1926.]

An Act further to amend the Indian Lunacy Act, 1912.

V of 1912. Whereas it is expedient further to amend the Indian Lunacy Act, 1912, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Lunacy (Amendment) Act, 1926. Short title.

2. (1) For sub-section (1) of section 6 of the Indian Lunacy Act, 1912 (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely:— Amendment of section 6, Act IV of 1912. IV of 1912.

"(1) Subject to the provisions of sub-section (3), the petition shall be presented by the husband or wife of the alleged lunatic, or, if there is no husband or wife or the husband or wife is prevented by reason of insanity, absence from India or otherwise from making the presentation, by the nearest relative of the alleged lunatic who is not so prevented."

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[1] For Statement of Objects and Reasons, see Gazette of India, [illegible], Pt. V, p. 15.

(2) In sub-section (2) of the same section, for the words "If the petition is not so presented, it" the following shall be *substituted*, namely:—

"If the petition is not presented by the husband or wife, or, where there is no husband or wife, by the nearest relative of the alleged lunatic, the petition".

Insertion of new section after section 11, Act IV of 1912.

3. Section 11A of the said Act shall be renumbered as *section* 11B, and after section 11 of the said Act the following section shall be inserted, namely:—

Power to appoint substitute for the person upon whose application a reception order has been made.

"11A. (1) The Magistrate may, subject to the provisions of this section, by order in writing (hereinafter referred to as an order of substitution), transfer the duties and responsibilities under this Act of the person on whose petition a reception order has been made to any other person who is willing to undertake the same, and such other person shall thereupon be deemed for the purposes of this Act to be the person on whose petition the reception order was made, and all references in this Act to such last-mentioned person shall be construed accordingly:

Provided that no such order of substitution shall release the person upon whose petition the reception order was made or, if he is dead, his legal representative from any liability incurred before the order of substitution was made.

(2) Before making any order of substitution, the Magistrate shall send a notice to the person upon whose petition the reception order was made, if he is alive, and to any relative of the lunatic to whom, in the opinion of the Magistrate, notice should be given: the notice shall specify the name of the person in whose favour it is proposed to make such order and the date, which shall be not less than twenty days from the sending of the notice, upon which any objection to the making of the order will be considered.

(3) On such date or any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice has been sent, or by any other relative of the lunatic, and shall receive all such evidence as may be produced by or on behalf of any of such persons and such further evidence, if any, as the Magistrate thinks necessary, and may thereafter make or refrain from making an order of substitution:

Provided that, if the person on whose petition the reception order was made is dead and any other person is willing and, in the opinion of the Magistrate, fitted to undertake the duties and responsibilities under this Act of such first-mentioned person, the Magistrate shall make such an order.

(4) If in proceedings under this section any question arises as to the person to whom the duties and responsibilities under this Act of a person upon whose petition a reception order has been made shall be entrusted, the Magistrate shall give preference to the person who is the nearest relative of the lunatic, unless for reasons to be recorded in writing, the Magistrate considers that such preference would not be in the interests of the lunatic

(5) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person who is a party thereto or out of the estate of the lunatic as he thinks fit

(6) Any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended "

4 In section 11B of the said Act as renumbered, in clause (c) of sub-section (2), after the figures "11" the figures and letter "11A" shall be inserted — Amendment of section 11B, Act IV of 1912

ACT No. VI OF 1926 [1]

[26th February 1926]

An Act further to amend the Code of Civil Procedure, 1908

V of 1908 — Whereas it is expedient further to amend the Code of Civil Procedure, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows —

1 This Act may be called the Code of Civil Procedure (Amendment) Act, 1926 — Short title

V of 1908 — 2 In section 103 of the Code of Civil Procedure, 1908, for the words "but not determined by the lower appellate Court" the words "which has not been determined by the lower appellate Court or which has been wrongly determined by such Court by reason of any illegality, omission, error or defect such as is referred to in sub-section (1) of section 100" shall be substituted — Amendment of section 103, Act V of 1908

1 For Statement of Objects and Reasons, see Gazette of India, [illegible] Pt. V, p. 179; and for Report of Select Committee, see Gazette of India, 1926, Pt. V, p. [illegible]

This Act has been extended to the district of Ajmer-Merwara [illegible]

ACT No. VII OF 1926.[1]

[*26th February, 1926.*]

An Act to consolidate and amend the law relating to the naturalization in British India of aliens resident therein.

Whereas it is expedient to consolidate and amend the law relating to the naturalization in British India of aliens resident therein; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Naturalization Act, 1926.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "British subject" means a British subject as defined[3] in section 27 of the British Nationality and Status of Aliens Act, 1914; 4 & 5 Geo. 5, c. 17.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 173; and for Report of Select Committee, *see* Gazette of India, 1926, Pt. V, p. 21.

[2] This Act was brought into force on the 1st July, 1926, *see* Gazette of India, 1926, Pt. I, p. 577.

[3] The expressions "British subject" and "natural-born British subject" are defined in sections 27 and 1, respectively, of the British Nationality and Status of Aliens Act, 1914 (4 & 5 Geo. 5, ch. 17), as follows :—

"27 * * * The expression 'British subject' means a person who is a natural-born British subject or a person to whom a certificate of naturalization has been granted or a person who has become a subject of His Majesty by reason of any annexation of territory."

* * * * * * *

"1. (*1*) The following persons shall be deemed to be natural-born British subjects, namely :—

(*a*) any person born within His Majesty's dominions and allegiance; and

(*b*) any person born out of His Majesty's dominions whose father was, at the time of that person's birth, a British subject, and who fulfils any of the following conditions, that is to say, if either—

(i) his father was born within His Majesty's allegiance; or

(ii) his father was a person *to whom a certificate of naturalization* had been granted; or

(iii) his father had become a British subject by reason of any annexation of territory; or

(iv) his father was at the time of that person's birth in the service of the Crown; or

(v) his birth was registered at a British consulate within one year or in special circumstances, with the consent of the Secretary of State, two years after its occurrence, or in the case of a person born on or after the first day of January, nineteen hundred and fifteen, who would have been a British subject if born before that date, within twelve months after the first day of August, nineteen hundred and twenty-two; and

(*c*) any person born on board a British ship whether in foreign territorial waters or not :

(*b*) "certificate of naturalization" means a certificate of naturalization granted under this Act, and

IX of 1875. (*c*) "minor" means any person subject to the Indian Majority Act, 1875, who has not attained his majority within the meaning of that Act, or any other person who has not attained the age of eighteen years

Grant of certificate of naturalization

3 (*1*) The Local Government may grant a certificate of naturalization to any person who makes an application in this behalf and satisfies the Local Government—

(*a*) that he is not a minor,

(*b*) that he is neither a British subject nor a subject of any state in Europe or America or of any state of which an Indian British subject is prevented by or under any law from becoming a subject by naturalization,

(*c*) that he has, during a period of not less than five years immediately preceding the date of the application, either resided in British India or been in the service of the Crown under the Government,

(*d*) that he is of good character,

(*e*) that he has an adequate knowledge of a language which has been declared by the Local Government, by notification in the local official Gazette, to be a principal vernacular of the province, and

(*f*) that he intends, if the application is granted, to reside in British India or to enter or continue in the service of the Crown under the Government

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Provided that the child of a British subject, whether that child was born before or after the passing of this Act, shall be deemed to have been born within His Majesty's allegiance if born in a place where by treaty, capitulation, grant, usage, sufferance or other lawful means His Majesty exercises jurisdiction over British subjects

Provided also that any person whose British nationality ... [illegible] ... a British subject ... within one year after ... [illegible] ... special cases ... made under this Act —

(i) [illegible] ... made under this Act, and

(ii) [illegible]

(2) [illegible]

(3) [illegible] ... the status of any person born before the commencement of this Act

(4) [illegible] ... service of the Crown ... [illegible]

Provided that nothing in clause (*c*) or clause (*f*) shall apply in the case of a woman who was a British subject previously to her marriage to a person not a British subject and whose husband has died or whose marriage has been dissolved.

(*2*) Nothing in this section shall be deemed to prevent the grant of a certificate of naturalization to any person to whom a certificate of naturalization has been issued under the Indian Naturalization Act, 1852. XXX of 1852.

Contents and form of application.

4. (*1*) Every application for a certificate of naturalization shall be in writing and shall state, to the best of the knowledge and belief of the applicant,—

(*a*) his age;

(*b*) his place of birth;

(*c*) his place of residence;

(*d*) his profession, trade, or occupation;

(*e*) full particulars regarding his qualifications in respect of the matters referred to in clauses (*a*) to (*f*) of sub-section (*1*) of section 3;

(*f*) whether he has at any time previously applied for the grant of a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914, or the Indian Naturalization Act, 1852, or this Act; 4 & 5 Geo. 5, c. 17. XXX of 1852.

(*g*) whether any such application has been rejected;

(*h*) whether any such certificate has been granted to him; and

(*i*) whether any such certificate granted to him has been revoked.

(*2*) Every such application shall be signed by the applicant and shall be accompanied by an affidavit sworn by him verifying that the statements contained therein are true to the best of his knowledge and belief.

(*3*) The Local Government shall satisfy itself as to the truth of the statements contained in the application, and for this purpose may cause to be made such further inquiry, if any, and may require such further evidence, if any, either by affidavit or otherwise, as it thinks necessary.

Grant of certificate.

5. (*1*) If the Local Government is satisfied that the applicant is qualified under section 3 for the grant of a certificate of naturalization and is otherwise a fit person for the grant of such certificate, it may grant a certificate reciting the qualifications of the applicant for such grant and conferring upon him all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may specifically be withheld by the certificate.

(2) Any such certificate may, if the applicant so requests, include the name of any minor child of the applicant, not being by birth a British subject, who was born before the date of the certificate and is for the time being resident in British India and under the control of the applicant, and shall grant to any child so included all the rights, privileges and capacities of naturalization under this Act, except such rights privileges or capacities if any, as may specifically be withheld by the certificate

(3) The grant of a certificate of naturalization shall be in the absolute discretion of the Local Government, and no appeal shall lie from any refusal to grant any such certificate or to include in any such grant any particular right, privilege or capacity

Oath of allegiance.

6. Every person to whom a certificate of naturalization has been granted shall, within thirty days from the date of the grant thereof, take and subscribe the following oath, namely —

"I, A B , of ,
do hereby swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His Heirs and Successors" :

Provided that the Local Government may extend the time allowed under this section in any case in which it is satisfied that failure to take and subscribe the oath within that time was due to sufficient cause

Effect of grant of certificate and taking of oath.

7. (1) No certificate of naturalization shall have effect until the person to whom it is granted has taken and subscribed the oath prescribed by section 6, but upon the taking and subscribing of such oath such person, the wife of any such person, and any child of any such person who has been included in the certificate under sub-section (2) of section 5, shall, when in British India, be deemed to be British subjects and be entitled to all the rights, privileges and capacities of a British subject born within British India, except such rights, privileges or capacities, if any, as may have been withheld from them respectively by the certificate, and shall within British India be subject to all the obligations, duties and liabilities of a British subject

(2) When the person to whom a certificate of naturalization has been granted has taken and subscribed the oath prescribed by section 6 any wife thereafter married by, and any child thereafter born to, such person shall, if she or he is not a British subject and if such person aforesaid at the date of the marriage or birth as the case may be, retains any rights, privileges or capacities of a British subject under this Act, be entitled to the same rights, privileges and capacities, and be subject to the same obligations duties and liabilities, to which such person aforesaid was at that date entitled and subject

Revocation of certificate.

8. (*1*) Where the Local Government of the province in which a person to whom a certificate of naturalization has been granted under this Act, or the Indian Naturalization Act, 1852, resides, or, in the case of any such person who is not for the time being resident in British India, the Local Government, by which such a certificate was granted to such person, is satisfied that the certificate was obtained by false representation or fraud or by concealment of material circumstances, or that the person to whom the certificate has been granted has shown himself by act or speech to be disaffected or disloyal to His Majesty, the Local Government shall, by order in writing, revoke the certificate.

XXX of 1852.

(*2*) Without prejudice to the foregoing provisions, such Local Government shall, by order in writing, revoke such a certificate of naturalization as aforesaid in any case in which it is satisfied that the person to whom the certificate was granted—

(*a*) has, during any war in which His Majesty is engaged unlawfully traded or communicated with the enemy, or with a subject of an enemy state, or been engaged in, or associated with, any business which is to his knowledge carried on in such a manner as to assist the enemy in such war; or

(*b*) has, within five years of the date of the grant of the certificate, been sentenced by any Court in His Majesty's dominions to transportation or to penal servitude, or to imprisonment for a term of not less than twelve months, or to pay a fine of not less than one thousand rupees; or

(*c*) was not of good character at the date of the grant of the certificate, or

(*d*) has since the date of the grant of the certificate been, for a period of not less than seven years, ordinarily resident out of His Majesty's dominions otherwise than as a representative of a British subject, firm or company carrying on business, or of an institution established, in His Majesty's dominions, or in the service of the Crown, and has not maintained substantial connection with His Majesty's dominions; or

(*e*) remains, according to the law of a state at war with His Majesty, a subject of that state;

and that the continuance of the certificate is not conducive to the public good.

(*3*) Nothing in this section shall be deemed to authorise the revocation by one Local Government of a certificate granted by another Local Government without the concurrence of that other Local Government, or, if that Local Government refuses to concur, of the Governor General in Council.

(4) The Local Government may, if it thinks fit, before making an order under this section, refer the case for such inquiry as is hereinafter specified, and, in any case to which sub-section (1) or clause (a), clause (c) or clause (e) of sub-section (2) applies the Local Government shall, by notice given to, or sent by post to the last known address of, the holder of the certificate, give him an opportunity of claiming that the case be referred for such inquiry and, if the holder so claims in accordance with the notice the Local Government shall refer the case for inquiry accordingly

(5) An inquiry under this section shall be held by such person or persons and in such manner as the Local Government may direct in each case

(6) Where a certificate is revoked under this section the revocation shall have effect from such date as may be directed by the Local Government, and thereupon the certificate shall be given up and cancelled, and any person who, without reasonable cause the burden of proving which shall lie upon him, fails to give up his certificate within one month from the aforesaid date, shall be punishable with fine, which may extend to one thousand rupees

(7) For the purposes of this section, any person who has acquired any of the rights, privileges or capacities of naturalization under sub section (2) of section 5 or sub section (2) of section 7 by reason of the grant to his parent of a certificate of naturalization may after he has attained majority, be deemed to be a person to whom a certificate of naturalization has been granted

9. (1) Where a certificate is revoked under section 8 the former holder thereof shall cease to be deemed to be a British subject — Effect of revocation of certificate

(2) On such revocation, the Local Government may by order in writing, direct that the wife and minor children (or any of them) of the person whose certificate is revoked shall cease to be deemed to be British subjects, but where no such direction is made the status of the wife and minor children of the person whose certificate is revoked shall not be affected by the revocation

Provided that, in the case of a wife who was at birth a British subject no such order as aforesaid shall be made unless the Local Government is satisfied that if she had held a certificate of naturalization in her own right the certificate could properly have been revoked under section 8 and the provisions of that section as to reference of cases for inquiry shall apply to the making of any such order as they apply to the revocation of a certificate

10. (1) A declaration of alienage may in such manner as may be prescribed by rules made under this Act may be made — Declaration of alienage.

(a) within one year of his attaining majority, by any child who has acquired any of the rights privileges or capacities of

naturalization under sub-section (*2*) of section 5, or sub-section (*2*) of section 7; or

(*b*) within six months from the date of the revocation of a certificate under section 8, or of the death of, or of the dissolution of her marriage with, the holder of any such certificate as is therein referred to, by the wife of the person whose certificate has been revoked, or who has died, or whose marriage to her has been dissolved, as the case may be.

(*2*) Where a declaration of alienage has been made in the manner aforesaid, the person making the same, and the wife of any such person, and any children of any such person who are minors and are not by birth British subjects, shall cease to be deemed to be British subjects.

Inquiries.

11. Every person making an inquiry under the orders of a Local Government under sub-section (*3*) of section 4, and every person appointed to hold an inquiry under sub-section (*5*) of section 8, shall be deemed to be a public servant within the meaning of the Indian Penal Code, and shall for the purposes of such inquiry have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters:—

XLV of 1860.

V of 1908.

(i) enforcing the attendance of any person and examining him on oath;

(ii) compelling the production of documents and material objects; and

(iii) issuing commissions for the examination of witnesses;

and every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

Oaths and affidavits.

12. (*1*) All oaths and affidavits for the purposes of this Act shall be sworn before a Magistrate or such other person as may be appointed in this behalf by the Local Government.

(*2*) The Magistrate or other person by whom an oath of allegiance is administered under section 6 shall grant to the person making the same a certificate in writing of his having taken and subscribed such oath and of the date of his taking and subscribing the same, and shall forward to the Local Government the oath so taken and subscribed, together with a copy of such certificate.

Power to make rules.

13. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters namely —

(a) the form or forms in which certificates of naturalization shall be granted, and the manner in which they shall be recorded,

(b) the manner in which declarations of alienage shall be made and recorded

(c) the recording of oaths of allegiance and

(d) the fees which may be imposed for the issue of any certificate, whether of naturalization or otherwise granted under this Act

14 Nothing contained in this Act shall be deemed to entitle to any of the rights privileges or capacities of a British subject the child of any person who is himself so entitled by reason only of the inclusion of his name in a certificate of naturalization under sub section (2) of section 5 or of the grant of a certificate of naturalization to his parent — Limitation to the grant of naturalization under this Act

15 [*Repeals*] *Repealed by the Repealing Act 1927 (12 of 1927)*

[*THE SCHEDULE*]

[*Enactments Repealed*] *Repealed by the Repealing Act 1927 (12 of 1927)*

ACT No IX OF 1926[1]

[*26th February, 1926*]

An Act to amend the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920

III of 1909, V of 1920 — Whereas it is expedient to extend the operation of the Presidency-towns Insolvency Act 1909, to the town of Karachi and to amend the said Act and the Provincial Insolvency Act 1920 for the said purpose, and for the further purposes hereinafter appearing, It is hereby enacted as follows —

1 (1) This Act may be called the Insolvency (Amendment) Act, 1926 — Short title and commencement

[1] For Statement of Objects and Reasons see Gazette of India 192[illegible] Pt V p. 17[illegible] and for Report of Select Committee see Gazette of India 1926 Pt V p. 23

This Act has been extended to the District of Ajmer Merwara by s 5 of Act 14 of 1874 see Notification No C C 1103 dated [illegible] August 192[illegible] Gazette of India 1926 Pt II A p 521

ACT No. X OF 1926.[1]

[26th February, 1926.]

An Act further to amend the Code of Criminal Procedure, 1898, for a certain purpose.

Whereas it is expedient further to amend the Code of Criminal Procedure, 1898, for the purpose hereinafter appearing; It is hereby enacted as follows :— V of 18

Short title.

1. This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1926.

Amendment of section 123, Act V of 1898.

2. In sub-section (6) of section 123 of the Code of Criminal Procedure, 1898, the words and figures "or section 109" shall be omitted, and before the word and figures "section 110" the words and figures "section 109 or" shall be inserted. V of 18

ACT No. XI OF 1926.[2]

[2nd March, 1926.]

An Act to provide for the validation of certain promissory notes.

Whereas it is expedient to provide for the validation of certain promissory notes stamped with postage stamps of the denomination of two or four annas; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Promissory Notes (Stamp) Act, 1926.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Validation of certain promissory notes.

2. A promissory note payable on demand for an amount exceeding two hundred and fifty rupees, executed after the 30th day of September, 1923, and before the 5th day of January, 1925, and stamped with an adhesive stamp or adhesive stamps inscribed for postage and of the value required by the law in force at the time the promissory note was executed, shall not, by reason only of the fact that the stamp or the stamps or any of them is or are of a description other than

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 25.

2 For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 70.

that required by such law, be deemed for any of the purposes of the II of 1899. Indian Stamp Act, 1899, or of the rules made thereunder not to have been duly stamped

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ACT No XII of 1926 [1]

[*8th March, 1926*]

An Act to define and limit the powers of certain Courts in punishing contempts of courts

Whereas doubts have arisen as to the powers of a High Court of Judicature to punish contempts of subordinate Courts

And whereas it is expedient to resolve these doubts and to define and limit the powers exercisable by High Courts and Chief Courts in punishing contempts of court, It is hereby enacted as follows —

Short title, extent and commencement.

1 (*1*) This Act may be called the Contempt of Courts Act, 1926

(*2*) It shall extend to the whole of British India

(*3*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint

Power of superior Courts to punish contempts of court.

2 (*1*) Subject to the provisions of sub section (3) the High Courts of Judicature established by Letters Patent shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice in respect of contempts of courts subordinate to them as they have and exercise in respect of contempts of themselves

(*2*) Subject to the provisions of sub section (3) a Chief Court shall have and exercise the same jurisdiction powers and authority, in accordance with the same procedure and practice in respect of contempt of itself as a High Court referred to in sub section (*1*)

(*3*) No High Court shall take cognizance of a contempt alleged to have been committed in respect of a Court subordinate to it where such XLV of 1860 contempt is an offence punishable under the Indian Penal Code

Limit of punishment for contempt of court.

3 Save as otherwise expressly provided by any law for the time being in force, a contempt of court may be punished with simple imprisonment for a term which may extend to six months or with fine, which may extend to two thousand rupees or with both

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court

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1 For Statement of Objects and Reasons see Gazette of India, 192[illegible] Pt V, p 4[illegible] and for Report of Select Committee see ibid p 2[illegible]

2 This Act was brought into force on the 1st May 192[illegible] see Gazette of India 192[illegible] Pt I, p 442

business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business, or

(*b*) who for the purposes of such procurement frequents the precincts of Civil or Criminal Courts or of revenue-offices, or railway stations, landing stages, lodging places or other places of public resort "

3. In section 36 of the said Act,— Amendment of section 36, Act XVIII of 1879

(*a*) in sub section (*1*) after the word "satisfaction" the words "or to the satisfaction of any subordinate Court as provided in sub section (*2A*)" shall be inserted,

(*b*) to sub section (*1*) the following *Explanation* shall be added, namely —

"*Explanation*—The passing of a resolution, declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an association of persons entitled to practise as legal practitioners in any Court or revenue-office, shall be evidence of the general repute of such person for the purposes of this sub section",

(*c*) after sub section (*2*) the following sub section shall be inserted, namely —

"(*2A*) Any authority empowered under sub section (*1*) to frame and publish a list of touts may send to any Court subordinate to such authority the names of any persons alleged or suspected to be touts and order that Court to hold an inquiry in regard to such persons, and the subordinate Court shall thereupon hold an inquiry into the conduct of such persons and, after giving each such person an opportunity of showing cause as provided in sub section (*2*), shall report to the authority which has ordered the inquiry the name of each such person who has been proved to the satisfaction of the subordinate Court to be a tout, and that authority may include the name of any such person in the list of touts framed and published by that authority

Provided that such authority shall hear any such person who, before his name has been so included, appears before it and desires to be heard",

(*d*) after sub section (*5*) the following sub section shall be inserted, namely —

"(*6*) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both "

Provided that nothing in this sub-rule shall apply to any pleader engaged to plead on behalf of any party by any other pleader who has been duly appointed to act in Court on behalf of such party."

3. [*Repeals*] *Repealed by the Repealing Act, 1927 (12 of 1927)*

ACT No XXIII OF 1926 [1]

[25th March, 1926]

An Act to provide for the maintenance of the works established to supply drinking water in bulk for the urban area of the city of Delhi, and for that purpose to constitute a Joint Water Board to undertake such maintenance.

WHEREAS it is expedient to provide for the maintenance of the works established to supply drinking water in bulk for the urban area of the city of Delhi, and for that purpose to constitute a Joint Water Board to undertake such maintenance, It is hereby enacted as follows —

Preliminary

1. (1) This Act may be called the Delhi Joint Water Board Act, 1926 Short title and commencement.

(2) It shall come into force on the 1st day of April, 1926

2 In this Act, unless there is anything repugnant in the subject or context, — Definitions.

(a) "the Board" means the Delhi Joint Water Board constituted by this Act,

(b) "Chief Commissioner" means the Chief Commissioner of Delhi; and

(c) "constituent body" means any one of the following bodies, namely :—

(i) the Delhi Municipal Committee,

(ii) the Delhi Civil Lines Notified Area Committee,

(iii) the Cantonment Authority, Delhi New Cantonments, and

(iv) the Imperial Delhi Municipal Committee, or such other authority as is for the time being entrusted with the distribution of water in the New Capital area

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[1] For Statement of Objects and Reasons see Gazette of India, 1926, Pt. V, p 73

Constitution, property and liabilities of the Board.

Constitution of the Board.

3. (*1*) As soon as possible after the commencement of this Act, there shall be constituted a Joint Water Board for Delhi consisting of nine members, of whom—

(*a*) one shall be the Chief Commissioner;

(*b*) four shall be members of the Delhi Municipal Committee elected by that Committee;

(*c*) one shall be a member of the Delhi Civil Lines Notified Area Committee elected by that Committee;

(*d*) one shall be a person nominated by the Officer Commanding the Delhi Independent Brigade; and

(*e*) two shall be persons nominated by the Governor General in Council.

(*2*) If any constituent body fails to elect within three months from the commencement of this Act any member who is to be elected by it under sub-section (*1*), or to fill within three months any vacancy in the office of a member so elected, the Chief Commissioner may nominate to the vacancy any member of that constituent body and the person so nominated shall hold office until the constituent body concerned elects another member in his place.

Incorporation of the Board.

4. (*1*) The Board constituted under section 3 shall be a body corporate by the name of the Delhi Joint Water Board, having perpetual succession and a common seal with power to acquire and hold property, both moveable and immovable, and to contract, and shall by the said name sue and be sued.

(*2*) The Chief Commissioner shall be *ex-officio* President of the Board.

(*3*) The Secretary of the Board shall be a person, not being a member of the Board, appointed by the Board.

Property of the Board.

5. Upon the constitution of the Board there shall be vested in the Board the works and other property specified in Parts A and B of Schedule I which were formerly the property of the Delhi Municipal Committee and of the Government, respectively.

Power to construct additional works.

6. If the Board is of opinion that the works and other property for the time being vested in it are inadequate for the purpose of the efficient supply of water under this Act, it may borrow money from the Governor General in Council or, with the sanction of the Governor General in Council and on such terms as he may approve, from any constituent body for the purpose of constructing additional works or of acquiring additional property, and the loan so raised shall be expended in the

construction of such works or the acquisition of such property, and any works so constructed or property so acquired shall vest in the Board.

Employment of Government agency for repairs, etc.

7. The Governor General in Council may direct that any specified work, repair, renewal or replacement which is to be undertaken by or for the Board shall be carried out on behalf of the Board by the Governor General in Council, and the Board shall pay the charges therefor at the rates and subject to the terms for the time being applicable in the case of works constructed by the Governor General in Council on behalf of a local authority.

Renewal and replacement fund.

8. (1) The Board shall, for the purpose of the renewal and replacement of the works and property vested in it, maintain a fund in such manner and subject to such conditions as the Auditor General may by rules prescribe.

(2) Without prejudice to the generality of the power of the Auditor General to make rules under sub-section *(1)*, such rules shall provide for the following matters, namely:—

(*a*) the amount of the annual payments to be made into the fund,

(*b*) the manner in which the balances of the fund shall be invested, and

(*c*) the manner in which and the objects upon which the balances and the interest accruing thereon may be expended.

Debt of the Board to the Municipal Committee, Delhi.

9. In consideration of the transfer to the Board of the works and other property of the Delhi Municipal Committee, specified in Part A of Schedule I, the Board shall be deemed to have taken from the Committee a loan of five lakhs of rupees bearing interest at the rate of six rupees per cent. per annum, and such loan shall be repaid to the Committee in equated half-yearly instalments of principal and interest over a period of fifty years or such shorter period, if any, not being less than thirty years, as the Committee may, before the payment of the first half-yearly instalment becomes due, elect.

Debt of the Board to the Governor General in Council.

10. *(1)* In consideration of the transfer to the Board of the works and other property of the Government specified in Part B of Schedule I, the Board shall be deemed to have taken from the Governor General in Council a loan of nineteen lakhs of rupees or of a sum equal to one-half of the capital cost of the works and property specified in that Part, whichever sum is less, and such loan shall bear interest at the rate of six rupees per cent. per annum and shall be repaid to the Governor General in Council in equated half-yearly instalments of principal and interest over a period of fifty years.

(2) For the purposes of this section, the capital cost of the works and other property specified in Part B of Schedule I shall be the amount recorded in the accounts of the Governor General in Council as the capital cost thereof, and, if any question arises as to the capital cost of any such works or property, it shall be referred to the Auditor General, whose decision shall be final.

Supply of water and payment therefor.

Supply of water.

11. The Board shall be bound to supply to each constituent body, at the place or places specified in respect of such body in Schedule II or at such other place or places as may be agreed between the Board and such body, water in bulk up to the amount demanded by such body or, if the total demand of the constituent bodies is in excess of the available supply, up to such proportion in the case of each constituent body as the Board may determine :

Provided that, if the Delhi Municipal Committee by notice in writing to the Borad so requires, the amount supplied to the Committee shall not in any one day during such period as may be specified in the notice be less than five-sevenths of the total supply available during that day or seven and a half million gallons, whichever amount is less.

Constituent bodies to pay actual cost of supply of water.

12. (*1*) Each constituent body shall pay for the water supplied to it the actual cost of supplying such water at a rate in respect of each thousand gallons of water supplied (hereinafter referred to as the final issue rate) calculated in the manner prescribed in this section :

Provided that the Delhi Municipal Committee shall be required to pay, in respect of each financial year, for the actual water supplied to it or for one thousand four hundred and sixty million gallons of water, whichever amount is greater, at the final issue rate or at the rate of three annas per thousand gallons, whichever is less, and any amount by which the price at the final issue rate of the supply actually taken by the Committee exceeds the sum so payable by the Committee shall be payable to the Board by the Governor General in Council.

(2) The final issue rate shall be calculated for each financial year after the accounts of the year have been closed by dividing the amount of the total expenditure of the Board during the year by the number of thousand gallons supplied by the Board during that year to the constituent bodies.

(3) For the purposes of sub-section (2) there shall be taken into account as expenditure of the Board—

(a) all establishment charges, including all expenditure upon repairs and maintenance not debitable to the fund established under section 8;

(b) repayments of principal and payments of interest in respect of any loan taken by the Board under section 6,

(c) the equated instalments payable to the Delhi Municipal Committee and the Governor General in Council under sections 9 and 10, and

(d) payments into the fund established under section 8 after deduction of such income, if any, from interest on the balances of the fund as is, under rules made by the Auditor General under that section, to be deemed to be current revenue of the Board

13. (1) Pending the calculation of the final issue rate for any financial year, payments for water supplied during that year shall be made provisionally at an estimated rate (hereinafter referred to as the collecting rate) **Provisional collecting rate**

(2) The collecting rate shall be calculated at the time of the framing of the budget estimates for the financial year by dividing the sum of the amount of the estimated expenditure of the Board in that year and of an addition of five per cent of that amount by the number of thousand gallons of water estimated as likely to be supplied during that year

(3) If any difference of opinion arises as to the supply of water to be estimated for the purposes of the ascertainment of the collecting rate the decision of the President of the Board thereon shall be final

(4) Each constituent body shall pay on demand after the close of each quarter of each financial year the cost of the water supplied to it in that quarter calculated at the collecting rate

Provided that, in the case of the water supplied to the Delhi Municipal Committee, if the collecting rate exceeds the rate of three annas per thousand gallons, the difference between the amount payable at that rate and the amount payable at the collecting rate shall be payable to the Board by the Governor General in Council

14 (1) If the final issue rate for any financial year exceeds the collecting rate determined for that year, the balance due shall be recovered from each constituent body, or, in the case of an excess over the **Final adjustment of accounts**

three annas rate payable by the Delhi Municipal Committee, from the Governor General in Council.

(2) If the final issue rate is less than the collecting rate, the excess collection shall be refunded to the constituent bodies from whom it was collected or, in the case of any amount recovered in excess from the Governor General in Council under sub-section (*4*) of section 13, to the Governor General in Council.

(3) If the total amount of water supplied during any financial year to the Delhi Municipal Committee is found to have been less than the minimum prescribed in sub-section (*1*) of section 12, the payment for the deficiency calculated at the final issue rate or at the rate of three annas per thousand gallons, whichever is less, shall be recovered from the Delhi Municipal Committee.

(*4*) Where any amount has been recovered under sub-section (*3*) from the Delhi Municipal Committee, then, if any recovery has been made from the Governor General in Council under sub-section (*4*) of section 13, the amount so recovered from the Committee or such portion thereof as is equal to the amount recovered from the Governor General in Council, shall be refunded to him.

Disputes as to liability for payments to or by the Board.

15. (*1*) If any dispute arises between the Board and the Governor General in Council or any constituent body as to the liability of the Governor General in Council or the constituent body to pay any sum demanded by the Board or as to the right of the Governor General in Council or the constituent body to any refund, or as to the amount of any refund, from the Board, the Governor General in Council or the constituent body, as the case may be, may require the Board to refer the matter in dispute to the Auditor General, and the decision of the Auditor General thereon shall be final:

Provided that, where the dispute relates to the liability of the Governor General in Council or a constituent body to make any payment to the Board, the payment shall be made to the Board pending the decision of the Auditor General.

(*2*) In making any such reference the Board shall furnish to the Auditor General and to the Governor General in Council or the constituent body concerned, as the case may be, a full statement of the grounds of its claim, and the Auditor General shall consider such statement, together with any like statement received from the Governor General in Council or the constituent body, within six weeks from the date of such reference.

Summary recovery of sums due from constituent bodies

16. If any constituent body does not, within one month of the receipt of a demand for any sum claimed by the Board, pay such sum, the Chief Commissioner may, on a requisition from the Board in this behalf,—

(*a*) if the balances of the constituent body are kept in the Government Treasury, order the officer in charge of the Treasury to reduce the balance at the credit of that body by the amount of the sum due and pay that amount to the Board, or

(*b*) in any other case, deduct the amount of the sum due from any contribution or sum payable by him on behalf of the Government to the constituent body and pay the amount so deducted to the Board

Budget and Accounts

Presentation of budget estimates

17. The budget estimates of the Board for each financial year shall be presented to the Board before the first day of March in the preceding financial year by the President and the budget as finally passed shall be subject to the approval of the Governor General in Council who shall have power to reduce any item in the estimates of expenditure and to restore any provision which he considers to be essential for the safe and efficient conduct of the business of the Board

Custody and disbursement of monies

18. (*1*) All monies received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury or if the Board so elects into a banking account kept with the Imperial Bank of India or any other bank approved by the Auditor General in this behalf

(*2*) All funds for disbursement shall be drawn by means of cheques which shall be signed by the President or by such other member of the Board as the President may, with the approval of the Board authorise in this behalf

Provisions for audit

19 The accounts of the Board shall be maintained in such form and shall be subject to such audit by such agency and on such terms and conditions as the Auditor General may prescribe

Supply of copies of budget and accounts

20 The Board shall furnish each financial year to the Chief Commissioner and to each constituent body a copy of its budget and of the accounts of the preceding financial year.

Provident Fund

Provident Fund

21. (*1*) The Board shall establish and maintain a Provident Fund for such of its officers and servants as are in receipt of a monthly pay exceeding twenty rupees

(2) The rules providing for the establishment and maintenance of the Provident Fund established for its officers and servants by the Delhi Municipal Committee shall, with such modifications only as may be necessary to adapt them for the purpose, apply for the purpose of the establishment and maintenance of the Provident Fund referred to in sub-section (*1*) until such time as the Board may, with the sanction of the Chief Commissioner, make other rules in this behalf.

(3) Contributions made by the Board to the Provident Fund shall be deemed to be establishment charges for the purpose of clause (*a*) of sub-section (*3*) of section 12.

Rights of user in property.

Rights of user of property for aqueducts, lines, etc.

22. (*1*) The Board may place and maintain aqueducts, conduits and lines of mains or pipes over, under, along or across any immoveable property without acquiring the same, and may at any time, for the purpose of examining, repairing, altering or removing any aqueduct, conduit or line of mains or pipes, enter on any property over, under, along or across which the aqueduct, conduit or line of mains or pipes has been placed:

Provided that the Board shall not acquire any right other than a right of user in the property over, under, along or across which any aqueduct conduit or line of mains or pipes is placed.

(*2*) The powers conferred by sub-section (*1*) shall not be exercisable in respect of any property vested in or under the control or management of the Government or any local authority or railway administration, save with the permission of the Governor General in Council or the Local Government or the local authority or railway administration, as the case may be, and in accordance with any rules made in this behalf under this Act:

Provided that the Board may, without such permission, repair, renew or amend any existing works of which the character or position is not to be altered if such repair, renewal or amendment is urgently necessary in order to maintain the supply of water without interruption, or is such that delay would be dangerous to human life or property.

Compensation for damage.

23. In the exercise of the powers conferred upon it by section 22, the Board shall cause as little damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by it.

Meters

24 (*1*) For the purpose of measuring and recording the amount of water supplied to each constituent body, the Board shall affix meters at the points of junction between the communication pipes of the constituent body and the mains or pipes belonging to the Board, and the cost of such meters shall be borne by the Board Supply of meters

(*2*) It shall be presumed, until the contrary is proved, that the quantity of water supplied through any connection is the quantity indicated by the meter affixed to that connection

25 (*1*) If any constituent body desires to have any meter tested, it may make an application in this behalf accompanied by a fee of two hundred and fifty rupees, and, on receipt of such application and fee, the Board shall forthwith cause the meter to be tested at a time and place of which due notice shall have been given to the constituent body Testing of meters

(*2*) If the meter is found on being tested to be incorrect, the Board shall be bound to replace or repair the same and to refund the fee paid under sub section (*1*) together with such sum, if any, as is proved to the satisfaction of the Board to have been paid in excess by the constituent body by reason of the incorrectness of the meter

Penalties

26 *Any person who*— Penalties.

(*a*) wilfully obstructs any person acting under the authority of the Board in setting out the line of any works or pulls up or removes any pillar post or stake fixed in the ground for the purpose of setting out the lines of such works or defaces or destroys any works made for the same purpose or

(*b*) wilfully or negligently breaks injures or opens any lock cock, valve, pipe or other water work belonging to the Board or

(*c*) unlawfully obstructs the flow of, or flushes draws off, diverts or takes water from, any water work belonging to the Board, or any water or stream by which any such water work is supplied, or

(*d*) obstructs any officer or servant of the Board in the discharge of his duties under this Act, or refuses or wilfully neglects to furnish him with the means necessary for making any entry, inspection, examination, or inquiry thereunder in relation to any water work, or

(*e*) bathes in, at or upon any water work, or washes throws or causes to enter therein any animal or throws any rubbish, dirt, filth or other offensive matter into any water work, or

washes or cleans therein any cloth, wool or leather or the skin of any animal, or causes the water of any sink, sewer or drain or of any steam engine or boiler or any other dirty water to turn or be brought into any water work, or does any other act whereby the water in any water work is fouled or likely to be fouled,

shall be punishable with fine which may extend to two hundred and fifty rupees.

Rules and bye-laws.

Power of the Governor General in Council to make rules.

27. (*1*) The Governor General in Council may, by notification in the Gazette of India, make rules[1] consistent with this Act for the purpose of carrying into effect the provisions thereof.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the term of office of members of the Board;

(*b*) the circumstances in which and the authority by which any member may be removed;

(*c*) the minimum number of meetings of the Board to be held during any year; and

(*d*) the conditions subject to which the Board may exercise the powers conferred by section 22 in respect of property of the Government or of a local authority or railway administration.

Power to make bye-laws.

28. The Board may, with the sanction of the Chief Commissioner, make bye-laws, consistent with this Act and any rules made thereunder, to provide for all or any of the following matters, namely :—

(*a*) the manner in which business shall be conducted at meetings of the Board;

(*b*) the maintenance by the Board of a record of all business transacted;

(*c*) the definition of the powers of the Board to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed;

(*d*) the definition of the powers of the Board in respect of the appointment, promotion and dismissal of officers and servants of the Board;

[1] For such rules, *see* Notification No. Mis.-103, dated 7th July 1927, Gazette of India, 1927, Pt. I, p. 708.

(e) the grant of pay and leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted,

(f) the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board,

(g) the circumstances in which security may be demanded from officers and servants of the Board and the amount and nature of such security in each case,

(h) the preparation of supplementary estimates of expenditure not included in the budget estimates and the manner in which such estimates shall be presented to the Board and sanctioned;

(i) the general regulation of all matters incidental to the Provident Fund and the investment thereof, and

(j) any other matter for which provision is required for the efficient discharge of the duties or business of the Board

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SCHEDULE I

(*See sections 5, 9 and 10*)

LIST OF WORKS AND PROPERTY

PART A

LIST OF WORKS TAKEN OVER FROM THE DELHI MUNICIPAL COMMITTEE.

1 *At Chandrawal*—

(a) 2 Settling tanks, each 160 × 63′

(b) 8 Settling tanks, each 163′ × 60′.

(c) 8 Filter beds, each 113 × 80

(The above tanks have been converted into settling tanks of greater depth by raising the walls and making certain other alterations)

(d) 6 Filter beds, each 170′ × 100′ (one of which has been converted into two settling tanks for the Paterson filters)

(e) The pipe connections to and from the above settling tanks and filter beds

(f) Pumping Station—

with 80′ brick chimney and coal bins and tramway and including the following plant—

3 Babcock and Wilcox Boilers Register Nos. D.-65, D.-66 and D.-94,

2 Green's Economisers,

3 Donkey Pumps,

3 Pumping Engines Nos. 2428, 2429 and 2907,

2 Travelling cranes.

(g) Workshop equipped with—

1 Lathe 20′ bed,

1 Lathe 12′ bed,

1 Lathe 6′ bed,

1 Shaping machine,

1 Drilling machine,

1 Slotting machine,

1 Power hammer,

2 Hearths,

1 Saw Bench,

1 Vice Bench with 7 vices,

1 Grindstone,

1 Double Emery wheel,

1 Blower,

1 Steam engine with necessary shafting for running the workshop,

5 Almirahs for keeping stores,

Carpenters' shop.

(h) Superintendent's Bungalow consisting of 4 main rooms and with 14 servants and staff quarters and the necessary latrines, etc.

(i) Office and Stores, with weighbridge.

(j) Clear water Reservoir, 2 Nos., total capacity 1,200,000 gallons with pipe connections.

2. *From Chandrawal to Hindu Rao*—

1 rising main 18″ diameter.

1 rising main 20″ diameter.

1 18″ venturi meter.

3. *At Hindu Rao*—

Reservoir, capacity 2½ million gallons,

Byepass and other pipes at Reservoir.

Valve House including 24″ outlet from the Reservoir and 24″, 16″ and 12″ delivery mains at valve house.

Chowkidars' Quarters, 6 Nos.

PART B

LIST OF WORKS TAKEN OVER FROM THE GOVERNMENT.

1 *At Wazirabad*—

(*a*) River training works

(*b*) River Intake

(*c*) Pumping Station with 120' steel chimney coal store and weigh-bridge and including the following plant—

2 Babcock and Wilcox Boilers Register No D 152 D -153 with stoker engine, feed pumps and Economiser complete

3 Engine and centrifugal pumps Nos 2012, 2013 2014,

Travelling crane

(*d*) 2 Settling tanks and filters, and clear water reservoir, and pipe connections

(*e*) 41 Quarters

2 *From Wazirabad to Chandrawal*—

(*a*) 28" venturi meters

(*b*) Rising main 36" diameter with Nallah crossing

(*c*) Approach Road and Irish Bridge

(*d*) 2 Silt tanks near Shah Alam's Mosque

(*e*) Masonry conduit from silt tanks to Chandrawal

3 *At Chandrawal*—

(*a*) Alterations to tanks and filters

(*b*) Paterson Filter Plant with the necessary supply and delivery channels and including—

Filter and Chemical House

4 Coagulating Tanks

2 Tanks by conversion of 170 x 100 filter bed

15 Paterson Filters

1 Paterson chloronome and two weighing machines

2 Motor driven Air Compressors

(*c*) 1 clear water reservoir, 1 million gallons capacity

(*d*) Pumping Station with 150' steel chimney and coal store including the following plant—

2 Babcock and Wilcox Boilers Register No D -154 D -155 with stoker engine and feed pump and Economiser complete,

2 Engines and Pumps Nos 3056 and 3057,

Travelling crane

4. *From Chandrawal to Mutiny Memorial*—

(*a*) 24″ venturi meter.

(*b*) Rising main 24″ diameter.

(*c*) 20″ connection from 24″ Government main to 20″ Municipal main.

(*d*) 16″ connection from 24″ main to Hindu Rao Reservoir.

(*e*) Mutiny Memorial Reservoir, capacity 1 million gallons with inlet and outlet pipes at site.

(*f*) Gauging Chamber with necessary control valves and inlet and outlet pipes.

5. *From Mutiny Memorial to Tolkatora*—

(*a*) 26″ diameter steel syphon to Idgah.

(*b*) 26″ venturi meter with chowkidar's quarter.

(*c*) Idgah Gauging Chamber with inlet and outlet pipes.

(*d*) Masonry conduit from Idgah to Talkatora.

(*e*) Talkatora Reservoir, capacity 2¼ million gallons with inlet and outlet pipes and byepass.

(*f*) Quarters, 5 units.

6. *From Talkatora to New Cantonments*—

(*a*) Pumping Station with 2 motor driven centrifugal pumps and starters, etc., complete.

(*b*) Rising main 10″ diameter.

(*c*) Reservoir capacity 400,000 gallons with inlet and outlet pipes and byepass.

(*d*) Quarters, one unit.

7. Any other work constructed as part of the New Capital Project which the Governor General in Council may hand over to the Board.

SCHEDULE II

(*See section 11.*)

PLACES AT WHICH THE BOARD WILL DELIVER A SUPPLY OF WATER IN BULK.

(*a*) Hindu Rao Reservoir, for supply to the Delhi Municipal Committee.

(*b*) Mutiny Memorial Reservoir, for supply to the Delhi Civil Lines Notified Area Committee.

(*c*) Idgah Reservoir, for supply to the Delhi Municipal Committee and for the purposes of the southern and western City Extensions.

(*d*) Talkatora Reservoir, for supply to the Imperial Delhi Municipal Committee.

(*e*) Cantonment Reservoir, for supply to the Cantonment Authority, Delhi New Cantonments.

ACT No XXIV OF 1926 [1]

[*25th March, 1926*]

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes

WHEREAS it is expedient further to amend the Indian Income tax Act, 1922, for the purposes hereinafter appearing, It is hereby enacted as follows — (XI of 1922.)

1. (*1*) This Act may be called the Indian Income tax (Amendment) Act, 1926 **Short title and commencement.**

(*2*) It shall come into force on the 1st day of April, 1926

2 After section 19 of the Indian Income tax Act, 1922 (hereinafter referred to as the said Act) the following section shall be inserted, namely — **Insertion of new section 19A in Act XI of 1922.** (XI of 1922.)

"19A The principal officer of every company shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder " **Supply of information regarding dividends.**

3 In clause (*e*) of section 51 of the said Act after the words "mentioned in" the word and figures "section 19A" shall be inserted **Amendment of section 51, Act XI of [illegible]**

4. In section 52 of the said Act, after the words "mentioned in" the words and figures "section 19A or" shall be inserted **[illegible]**

5 (*1*) In sub section (*1*) of section 57 of the said Act for the word "assessee" the word "person" shall be substituted **[illegible]**

(*2*) For sub section (*2*) of the same section the following sub-[illegible] shall be substituted namely —

"(*2*) Where the Income tax Officer has reason to [illegible] person who is a shareholder in a company [illegible] British India and that the total income of [illegible] any year exceed the maximum amount [illegible] to super tax under the law for the [illegible] by order in writing, require the [illegible] pany to deduct at the time of pay[illegible]

1 For Statement of Objects and Reasons, see [illegible] and for Report of Select Committee see [illegible]

The Act has been declared in force in the [illegible] Laws Regulation 1913 (3 of 1913) see [illegible] August 1927, B and O Gazette 1927, Pt. [illegible]

the company to the shareholder in that year super-tax at such rate as the Income-tax Officer may determine as being the rate applicable in respect of the income of the shareholder in that year.

(3) If in any year the amount of any dividend or the aggregate amount of any dividends paid to any shareholder by a company (together with the amount of any income-tax payable by the company in respect thereof) exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the law for the time being in force, and the principal officer of the company has not reason to believe that the shareholder is resident in British India, and no order under sub-section (2) has been received in respect of such shareholder by the principal officer from the Income-tax Officer, the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends (together with the amount of such income-tax as aforesaid) constituted the whole total income of the shareholder."

(3) Sub-section (3) of the same section shall be re-numbered as sub-section (4), and in that sub-section for the words "an assessee" the words "another person" and for the word "assessee", where it occurs for the second time, the word "person" shall be substituted.

nt 58, **6.** To sub-section (1) of section 58 of the said Act the following proviso shall be added, namely :—

"Provided that sub-sections (4) to (9) of section 18 shall apply, so far as may be, to the assessment, collection and recovery of super-tax under sub-section (2) or sub-section (3) of section 57."

ent 66, **7.** To section 66 of the said Act the following sub-section shall be added, namely :—

"(8) For the purposes of this section "the High Court" means—

(a) in relation to the North-West Frontier Province and British Baluchistan, the High Court of Judicature at Lahore;

(b) in relation to the province of Ajmer-Merwara, the High Court of Judicature at Allahabad; and

(c) in relation to the province of Coorg, the High Court of Judicature at Madras."

Insertion of new section 66A in Act XI of 1922

8. After section 66 of the said Act the following section shall be inserted, namely:—

References to be heard by Benches of High Courts, and appeal to lie in certain cases to Privy Council

"66A. (*1*) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court and in respect of such case the provisions of section 98 of the Code of Civil Procedure,
908 1908, shall, so far as may be apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force.

(*2*) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to His Majesty in Council.

908 (*3*) The provisions of the Code of Civil Procedure, 1908 relating to appeals to His Majesty in Council shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court.

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (*5*) or sub-section (*7*) of section 66.

Provided further, that the High Court may on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby transmit the order for execution to any Court subordinate to the High Court.

(*4*) Where the judgment of the High Court is varied or reversed in appeal under this section effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (*5*) and (*7*) of section 66 in the case of a judgment of the High Court.

(*5*) Nothing in this section shall be deemed—

(*a*) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or

(*b*) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee."

ACT No. XXV OF 1926.[1]

[*25th March, 1926.*]

An Act further to amend the Indian Divorce Act.

WHEREAS it is expedient further to amend the Indian Divorce Act, for the purpose hereinafter appearing; It is hereby enacted as follows :— IV of 1869.

Short title.

1. This Act may be called the Indian Divorce (Amendment) Act, 1926.

Amendment of section 2, Act IV of 1869.

2. For the second, third and fourth paragraphs of section 2 of the Indian Divorce Act the following shall be substituted, namely :—

"Nothing hereinafter contained shall authorise any Court to grant any relief under this Act except where the petitioner professes the Christian religon,

or to make decrees of dissolution of marriage except where the parties to the marriage are domiciled in India at the time when the petition is presented,

or to make decrees of nullity of marriage except where the marriage has been solemnized in India and the petitioner is resident in India at the time of presenting the petition,

or to grant any relief under this Act, other than a decree of dissolution of marriage or of nullity of marriage, except where the petitioner resides in India at the time of presenting the petition."

ACT No. XXVI OF 1926.[2]

[*25th March, 1926.*]

An Act further to amend the Indian Factories Act, 1911.

WHEREAS it is expedient further to amend the Indian Factories Act, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows :— XII of 1911.

Short title and commencement.

1. (*1*) This Act may be called the Indian Factories (Amendment) Act, 1926.

(*2*) It shall come into force on such date[3] as the Governor General in Council may, by notification in the Gazette of India, appoint.

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 101.

2 For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 230, and for Report of Select Committee, *see* Gazette of India, 1926, Pt. V, p. 103.

3 This Act was brought into force on the 1st June, 1926, *see* Gazette of India, 1926, Pt. I, p. 660.

1911. **2.** In section 2 of the Indian Factories Act, 1911 (hereinafter referred to as the said Act),— **Amendment of section 2, Act XII of 1911**

(*a*) in clause (*2*), the *Explanation* shall be omitted,

(*b*) in sub-clause (*a*) of clause (*3*), for the words "process for, or incidental to making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article" the words "manufacturing process" shall be substituted, and in sub-clause (*b*) of the same clause, for the words "such process" the words "manufacturing process" shall be substituted, and

(*c*) after clause (3) the following clause shall be inserted, namely —

(*4*) "manufacturing process" means any process for or incidental to,

(*a*) making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport or sale any article, or part of an article, or

(*b*) refining oil or pumping or filtering water, or

(*c*) supplying, generating or transforming pneumatic, hydraulic or electrical energy

and includes the baling of any material for transport."

3. In section 3 of the said Act, for the figures "1901" the figures "1921" shall be substituted. **Amendment of section 3, Act XII of 1911**

4 In sub-section (*1*) of section 7 of the said Act,— **Amendment of section 7, Act XII of 1911**

(*a*) after the words "such person and" the words "if he is fit for employment in a factory" shall be inserted and

(*b*) for the words "whether he is fit for employment in a factory" the words "that he is fit for such employment" shall be substituted

5 In section 10 of the said Act, for the words "be provided, maintained and used before a specified date" the following shall be substituted, namely — **Amendment of section 10, Act XII of 1911**

shall be provided before such date as may be specified in the order, and shall thereafter be maintained and used."

6 (*1*) Section 19 of the said Act shall be renumbered as sub-section (*1*) of that section and in that sub-section as so renumbered the words "as the case may be" shall be omitted **Amendment of section 19, Act XII of 1911**

(2) To the same section the following sub-section shall be added, namely :—

"(2) The Local Government may, by notification in the local official Gazette, prohibit in any factory or class of factories specified in the notification the cleaning by any person of any part so specified of any mill-gearing or machinery while the same is in motion by the action of steam, water or other mechanical or electrical power."

Amendment of section 21, Act XII of 1911.

7. In sub-section (*1*) of section 21 of the said Act,—

(*a*) for sub-clause (ii) of clause (*a*) the following sub-clause shall be substituted, namely :—

"(ii) at the request of the employees concerned, periods of rest, at intervals not exceeding five hours, of not less than half an hour each, the total duration of the periods of rest on that day not being less than one hour for each period of six hours' work done";

(*b*) to clause (*a*) the following proviso shall be added, namely :—

"Provided that, in lieu of the periods provided under sub-clause (i) or sub-clause (ii) there may be fixed for each male person employed for not more than eight and a half hours on each working day, at the request of the employees concerned and with the previous sanction of the Local Government, a period of rest of not less than half an hour, so arranged that no such person shall work for more than five hours continuously, and".

Amendment of section 25, Act XII of 1911.

8. In section 25 of the said Act, the words "woman or" shall be omitted.

Amendment of section 30, Act XII of 1911.

9. In sub-section (*1*) of section 30 of the said Act,—

(*a*) in clause (*c*) after the word "except" the number and brackets "(i)" shall be inserted, and after the words "seasons or" the number and brackets "(ii)" shall be inserted;

(*b*) after the words "as it may impose" the words "and in such area as may be specified in the notification" shall be inserted;

(*c*) in the paragraph beginning "in case (*a*)" after the word "sections" the figures "21" shall be inserted;

(*d*) in the paragraph beginning "in case (*b*)" after the word "sections" the figures "21", and after the figures "22" the figures "26" shall be inserted;

(*e*) in the paragraph beginning "in case (*c*)" for the word and figures "and 22" the word and figures "22 and 28" shall be substituted;

(*f*) after the paragraph beginning ' in cases (*d*) and (*e*)" the following paragraph shall be added, namely —

' in case (*e*) (ii) such class of factories from the provisions of section 26 "

10. In section 31 of the said Act, after the figure ' (*1*) ' the words and figure ' or sub section (*2*) ' shall be inserted

Amendment of section 31, Act XII of 1911

11. After section 32 of the said Act the following section shall be inserted, namely —

Insertion of new section 32A in Act XII of 1911

' 32A The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

Other special exemptions

(*a*) any factory or class of factories from the provisions of section 22 in respect of persons employed therein in any engine room or boiler-house, or

(*b*) any fish curing or fish canning factory from the provisions of clause (*a*) of section 24 where the employment of women outside the limits provided by that clause is necessary to prevent any damage to or deterioration of any raw material "

12 In sub section (*3*) of section 33 of the said Act, for the words "the occupier shall himself " the words ' or during which the person designated does not manage the factory, any person found acting as manager of the factory or, if no such person is found the occupier himself shall ' shall be inserted

Amendment of section 33, Act XII of 1911

13 In section 34 of the said Act, for the words " When any accident occurs in a factory causing " the words ' When in any factory an accident occurs which causes ' shall be substituted and after the words ' occurrence of the accident ' the following shall be inserted namely —

Amendment of section 34, Act XII of 1911

' or which is due to any cause which has been notified in this behalf by the Local Government in the local official Gazette '

14 To section 35 of the said Act the following provisos shall be added, namely —

Amendment of section 35, Act XII of 1911

"Provided that, where the Local Government is satisfied that the conditions of work in any factory or class of factories are such that no contravention of the provisions of Chapter IV is possible in the case of that factory or of factories of that class, as the case may be, the Local Government may, by notification in the local official Gazette exempt on such conditions, if any, as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section in respect of persons, other than children employed therein

Provided, further, that, where in the opinion of the inspector a muster roll or register kept in a factory gives the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall be kept in place of the register prescribed under this section, and such muster roll or register shall thereupon, for all the purposes of this Act, be deemed to be the register so prescribed."

Amendment of section 36, Act XII of 1911.

15. For sub-section (3) of section 36 of the said Act the following sub-section shall be substituted, namely:—

"(3) The said notice shall be correctly maintained and kept up to date and any change in the standing orders of the factory shall be entered therein by the manager before such change comes into force; and, when any such change is entered in the notice, a copy of the notice or of the order in which the change is made shall be sent in duplicate by the manager to the inspector within thirty-six hours."

Insertion of new section 44A in Act XII of 1911.

16. After section 44 of the said Act the following section shall be inserted, namely:—

Employment of children in two factories on the same day.

"44A. Where a child is employed in any factory and such child has already been employed on the same day in any other factory, the parent or guardian or person having legal custody of or control over or direct benefit from the wages of the child shall be punished with fine, which may extend to twenty rupees, unless it appears to the Court that the offence was committed without the consent, connivance or wilful default of the parent, guardian, or such person as aforesaid."

Amendment of section 49, Act XII of 1911.

17. In section 49 of the said Act, after the word "thereunder" the words and figures "other than an offence under section 33" shall be inserted.

ACT No. XXVII OF 1926.[1]

[*25th March, 1926.*]

An Act to explain certain provisions of the Transfer of Property Act, 1882.

WHEREAS it is expedient to explain certain provisions of the Transfer of Property Act, 1882; It is hereby enacted as follows:— IV of 18

Short title.

1. This Act may be called the Transfer of Property (Amendment) Act, 1926.

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1 For Statement of Objects and Reasons, see Gazette of India, 1925, Pt. V, p. 22, and for Report of Select Committee, see Gazette of India, 1926, Pt. V, p. 102.

of 1882. 2. In section 3 of the Transfer of Property Act, 1882, after the definition of the word 'instrument'', the following shall be inserted, namely — Amendment of section 3, Act IV of 1882

"'attested' in relation to an instrument, means [1][and shall be deemed always to have meant] attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgment of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant, but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary"

ACT No XXVIII OF 1926 [2]

[3rd September, 1926]

An Act to amend the Usurious Loans Act, 1918, for certain purposes.

of 1918. WHEREAS it is expedient to amend the Usurious Loans Act, 1918, for certain purposes hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Usurious Loans (Amendment) Act, 1926 Short title.

of 1918. 2. To sub section (3) of section 2 of the Usurious Loans Act, 1918 (hereinafter referred to as the said Act), the following shall be added after clause (b), namely — Amendment of section 2, Act X of 1918

"or

(c) for the redemption of any security given after the commencement of this Act in respect of any loan made either before or after the commencement of this Act"

3. In section 3 of the said Act,— Amendment of section 3, Act X of 1918.

(i) in clause (i) of the proviso to sub-section (1), for the word "six" the word "twelve" shall be substituted; and

(ii) to sub section (3) after the words "in respect of a loan" the words "or for the redemption of any such security" shall be added

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[1] These words were inserted by s 2 and Sch I of the Repealing and Amending Act 1927 (10 of 1927)

[2] For Statement of Objects and Reasons, see Gazette of India, 1926, Pt V, p 132

ACT No. XXIX OF 1926.[1]

[*3rd September, 1926.*]

An Act further to amend the Workmen's Compensation Act, 1923.

WHEREAS it is expedient further to amend the Workmen's Compensation Act, 1923; It is hereby enacted as follows :— VIII of 1923.

Short title.

1. This Act may be called the Workmen's Compensation (Amendment) Act, 1926.

Amendment of section 3, Act VIII of 1923.

2. In sub-section (*2*) of section 3 of the Workmen's Compensation Act, 1923, for the words "hides or skins" the following shall be substituted, namely :— VIII of 1923.

"or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax."

ACT No. XXX OF 1926.[2]

[*3rd September, 1926.*]

An Act further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for certain purposes.

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows :— XXVI of 1881. V of 1908.

Short title.

1. This Act may be called the Negotiable Instruments (Interest) Act, 1926.

Amendment of section 80, Act XXVI of 1881.

2. In section 80 of the Negotiable Instruments Act, 1881, for the words and figures "except in cases provided for by the Code of Civil Procedure, section 532" the words "notwithstanding any agreement relating to interest between any parties to the instrument" shall be substituted. XXVI of 1881. V of 1908.

3. [*Amendment of section 117, Act XXVI of 1881.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 131.

The Act has been declared in force in the Angul District, under s. 5 of the Angul Laws Regulation, 1913 (3 of 1913), *see* Notification No. 2361-P. R., dated 3rd August 1927, B. and O. Gazette, 1927, Pt. II, p. 942.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 135.

4. In the First Schedule to the Code of Civil Procedure, 1908,— **Amendment of First Schedule to Act V of 1908**

(1) in sub-rule (2) of rule 2 of Order XXXVII, for the words beginning with the words "for any sum not exceeding" and ending with the words "executed forthwith" the following shall be substituted, namely:—

(a) for the principal sum due on the instrument and for interest calculated in accordance with the provisions of section 79 or section 80, as the case may be, of the Negotiable Instruments Act, 1881, up to the date of the institution of the suit, or for the sum mentioned in the summons, whichever is less, and for interest up to the date of the decree at the same rate or at such other rate as the Court thinks fit; and

(b) for such subsequent interest, if any, as the Court may order under section 34 of this Code; and

(c) for such sum for costs as may be prescribed:

Provided that, if the plaintiff claims more than such fixed sum for costs, the costs shall be ascertained in the ordinary way.

(3) A decree passed under this rule may be executed forthwith."; and

(2) in Form No. 4 in Appendix B, after the words "for costs" the words "together with such interest, if any, from the date of the institution of the suit as the Court may order" shall be inserted.

ACT No. XXXI OF 1926.[1]

[*9th September, 1926.*]

An Act further to amend the Indian Evidence Act, 1872, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Evidence Act, 1872, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Evidence (Amendment) Act, 1926. **Short title.**

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[1] For Statement of Objects and Reasons, see Gazette of India, 1926, Pt. V, p. 14[illegible].

ACT No. XXIX OF 1926.[1]

[*3rd September, 1926.*]

An Act further to amend the Workmen's Compensation Act, 1923.

WHEREAS it is expedient further to amend the Workmen's Compensation Act, 1923; It is hereby enacted as follows:— VIII of 1923.

Short title. **1.** This Act may be called the Workmen's Compensation (Amendment) Act, 1926.

Amendment of section 3, Act VIII of 1923. **2.** In sub-section (*2*) of section 3 of the Workmen's Compensation Act, 1923, for the words "hides or skins" the following shall be substituted, namely:— VIII of 1923.

"or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax."

ACT No. XXX OF 1926.[2]

[*3rd September, 1926.*]

An Act further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for certain purposes.

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows:— XXVI of 1881. V of 1908.

Short title. **1.** This Act may be called the Negotiable Instruments (Interest) Act, 1926.

Amendment of section 80, Act XXVI of 1881. **2.** In section 80 of the Negotiable Instruments Act, 1881, for the words and figures "except in cases provided for by the Code of Civil Procedure, section 532" the words "notwithstanding any agreement relating to interest between any parties to the instrument" shall be substituted. XXVI of 1881. V of 1908.

3. [*Amendment of section 117, Act XXVI of 1881.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 131.

The Act has been declared in force in the Angul District, under s. 5 of the Angul Laws Regulation, 1913 (3 of 1913), *see* Notification No. 2361-P. R., dated 3rd August 1927, B. and O. Gazette, 1927, Pt. II, p. 942.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 135.

4. In the First Schedule to the Code of Civil Procedure, 1908— Amendment of First Schedule to Act V of 1908.

(1) in sub-rule (2) of rule 2 of Order XXXVII, for the words beginning with the words "for any sum not exceeding" and ending with the words "executed forthwith" the following shall be substituted, namely:—

"(a) for the principal sum due on the instrument and for interest calculated in accordance with the provisions of section 79 or section 80, as the case may be, of the Negotiable Instruments Act, 1881, up to the date of the institution of the suit, or for the sum mentioned in the summons, whichever is less, and for interest up to the date of the decree at the same rate or at such other rate as the Court thinks fit; and

(b) for such subsequent interest, if any, as the Court may order under section 34 of this Code, and

(c) for such sum for costs as may be prescribed:

Provided that, if the plaintiff claims more than such fixed sum for costs, the costs shall be ascertained in the ordinary way.

(3) A decree passed under this rule may be executed forthwith"; and

(2) in Form No. 4 in Appendix B, after the words "for costs" the words "together with such interest, if any, from the date of the institution of the suit as the Court may order" shall be inserted.

ACT No. XXXI of 1926.[1]

[9th September, 1926.]

An Act further to amend the Indian Evidence Act, 1872, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Evidence Act, 1872, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Evidence (Amendment) Act, 1926. Short title.

[1] For Statement of Objects and Reasons, see Gazette of India, 19[illegible], Pt. V, p. [illegible].

Amendment of section 68, Act I of 1872.

2. To section 68 of the Indian Evidence Act, 1872, the following proviso shall be added, namely:— I of 1872.

"Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908, unless its execution by the person by whom it purports to have been executed is specifically denied." XVI of 1908.

ACT No. XXXII OF 1926.[1]

[*9th September, 1926.*]

An Act further to amend the Administrator General's Act, 1913.

WHEREAS it is expedient further to amend the Administrator General's Act, 1913, for the purposes hereinafter appearing; It is hereby enacted as follows:— III of 1913.

Short title.

1. This Act may be called the Administrator General's (Amendment) Act, 1926.

Amendments of sections 9, 31 and 37, Act III of 1913.

2. In sections 9, 31 and 37 of the Administrator General's Act, 1913, for the words "one thousand" the words "two thousand" shall be substituted. III of 1913.

ACT No. XXXIII OF 1926.[2]

[*9th September, 1926.*]

An Act further to amend the Indian Companies Act, 1913, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Companies Act, 1913, for the purpose hereinafter appearing; It is hereby enacted as follows:— VII of 1913.

Short title.

1. This Act may be called the Indian Companies (Amendment) Act, 1926.

Amendment of section 26, Act VII of 1913.

2. In sub-section (*1*) of section 26 of the Indian Companies Act, 1913, after the word "science" the word "religion" shall be inserted. VII of 1913.

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 141.
2 For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 142.

ACT No XXXIV OF 1926 [1]

[*9th September, 1926*.]

An Act to supplement the Sind Courts Act, 1926.

Act 1926. WHEREAS it is expedient to supplement the Sind Courts Act, 1926, for the purposes hereinafter appearing, It is hereby enacted as follows —

Short title and commencement. **1.** (*1*) This Act may be called the Sind Courts (Supplementary) Act, 1926

Act (*2*) It shall come into force on the commencement of the Sind Courts Act, 1926

Amendment of certain enactments. **2.** The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof

Repeals. Act 1926. **3.** Part I of the First Schedule and Part I of the Second Schedule to the Sind Courts Act, 1926, are hereby repealed

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THE SCHEDULE

ENACTMENTS AMENDED

(*See section 2*.)

Year	No	Short title	Amendments
1866 .	XXVII	The Indian Trustee Act, 1866	In section 2 in the definition of "High Court", for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted
" .	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866	In section 1, in the definition of "High Court", for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted
1869 .	IV .	The Indian Divorce Act	In section 3— (i) In clause (1) after the words "the Chief Court of Oudh" the words "in Sind—the Chief Court of Sind" shall be inserted, (ii) In clause (2)— (i) the words "in Sind—the Judicial Commissioner of that province" shall be omitted, and (ii) after the words "in Burma" the words "and Sind" shall be inserted.

[1] For Statement of Objects and Reasons see Gazette of India 1926 Pt. V, p. 144

THE SCHEDULE—*contd.*

Year.	No.	Short title.	Amendments.
1875 . .	XVIII .	The Indian Law Reports Act, 1875.	(1) In the preamble for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted. (2) In section 3, after the words "Court of Oudh" the words "or the Chief Court of Sind" shall be inserted.
1879 . .	XVIII .	The Legal Practitioners Act, 1879.	In sub-section (*4*) of section 41, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.
1891 . .	XVI .	The Colonial Courts of Admiralty (India) Act, 1891.	In section 2— (i) after clause (*4*) the following clause shall be inserted, namely:— "(*4a*) The Chief Court of Sind, and"; (ii) the word "and", at the end of clause (*5*), and clause (*6*) shall be omitted.
1898 . .	V . .	The Code of Criminal Procedure, 1898.	(1) In clause (*j*) of sub-section (*1*) of section 4— (i) for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted, and (ii) for the words "Courts of the Judicial Commissioners of the Central Provinces and Sind" the words "Court of the Judicial Commissioner of the Central Provinces" shall be substituted. (2) In section 266— (i) for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted; and (ii) for the words "Courts of the Judicial Commissioners of the Central Provinces and Sind" the words "Court of the Judicial Commissioner of the Central Provinces" shall be substituted. (3) In sub section (*1*) of section 364, after the words "Court of Oudh" the words "or the Chief Court of Sind" shall be inserted. (4) In section 365, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.

THE SCHEDULE—*concld*

Year.	No.	Short title.	Amendments
1908 .	V	. The Code of Civil Procedure, 1908	(1) In section 122, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted. (2) In section 123, for the words "of the Chief Court" the words "Chief Courts" shall be substituted
"	IX	. The Indian Limitation Act, 1908.	In the First Schedule, Third Division, in Article 162, after the word "Bombay" the words "or the Chief Court of Sind" shall be inserted
1909 .	III .	. The Presidency-towns Insolvency Act, 1909.	(1) In clause (*bb*) of section 2, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted (2) For clause (*b*) of section 3 the following clause shall be substituted, namely — "(*b*) the Chief Court of Sind". (3) In section 4 and in sub section (*1*) of section 6, for the words "Judicial Commissioner" the words "Chief Judge" shall be substituted (4) In sub section (*1*) of section 77, for the words "Judicial Commissioner of Sind" the words "Chief Judge of the Chief Court of Sind" shall be substituted. (5) In sub section (*5*) of section 90, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted.
1920 .	V .	. The Provincial Insolvency Act, 1920.	In clause (*a*) of sub-section (*1*) of section 2, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted

ACT No. XXXV of 1926.[1]

[*9th September, 1926.*]

An Act further to amend the Cantonments Act, 1924, for certain purposes.

WHEREAS it is expedient further to amend the Cantonments Act, 1924, for the purposes hereinafter appearing; It is hereby enacted as follows:— II of 1924.

Short title. 1. This Act may be called the Cantonments (Amendment) Act, 1926.

Amendment of certain sections of Act II of 1924. 2. In clause (i) of section 2, the proviso to clause (*e*) of sub-section (*1*) of section 14, sub-section (*4*) of section 22, sub-section (*3*) of section 36, section 83, sub-section (*1*) of section 101, sub-section (*2*) of section 134, sub-section (*1*) of section 151 and the proviso thereto, sub-section (*1*) of section 192, clauses (*b*) and (*c*) of section 200 of the Cantonments Act, 1924 (hereinafter referred to as the said Act), and in each entry, except the last, in Schedule V to the said Act, for the words "Officer Commanding the District," the words "Officer Commanding-in-Chief, the Command" shall be substituted. II of 1924.

Amendment of section 41, Act II of 1924. 3. In sub-section (2) of section 41 of the said Act, after the words "information to", the words "the Officer Commanding-in-Chief, the Command" shall be inserted.

Amendment of sections 47 and 48, Act II of 1924. 4. In sections 47 and 48 of the said Act, for the words "Officer Commanding the District" the words "Governor General in Council or the Officer Commanding-in-Chief, the Command" shall be substituted.

Amendment of section 49, Act II of 1924. 5. In section 49 of the said Act,—

(i) for the words "Officer Commanding the District" where they occur for the first time, the words "Governor General in Council or the Officer Commanding-in-Chief, the Command" shall be substituted;

(ii) for the words "with the concurrence of the Officer Commanding-in-Chief, the Command, and of", the words "after consultation with" shall be substituted; and

(iii) for the words "Officer Commanding the District", where they occur in the proviso, the words "Governor General in Council or the Officer Commanding-in-Chief, the Command, as the case may be" shall be substituted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 146.

6. In section 50 of the said Act, for the words "Officer Commanding the District", the words "Governor General in Council or the Officer Commanding in Chief, the Command, as the case may be," shall be substituted. Amendment of section 50, Act II of 1924.

7. After section 99 of the said Act the following section shall be inserted, namely:— Insertion of new section 99A in Act II of 1924.

"99A. The Local Government may, by notification in the local official Gazette, exempt, either wholly or in part from the payment of any tax imposed under this Act any person or class of persons or any property or goods or class of property or goods belonging to the Secretary of State for India in Council." General power of exemption.

8. After section 117 of the said Act the following section shall be inserted, namely:— Insertion of new section 117A in Act II of 1924.

"117A. A Cantonment Authority may make provision for educational objects outside the cantonment if it is satisfied that the interests of the residents of the cantonment will be served thereby." Power of expenditure for educational purposes outside the cantonment.

9. In section 277 of the said Act,— Amendment of section 277, Act II of 1924.

(i) sub-section (*1*) shall be omitted and sub-sections (*2*) and (*3*) shall be re-numbered sub-sections (*1*) and (*2*);

(ii) in sub-section (*2*) as re-numbered, for the words "Officer Commanding the District", the words "Officer Commanding-in-Chief, the Command" shall be substituted.

10. In sub-section (*2*) of section 280 of the said Act, after clause (*h*) the following clause shall be inserted, namely:— Amendment of section 280, Act II of 1924.

"(*hh*) the circumstances in which and the conditions subject to which remissions and refunds of taxes may be made in respect of buildings in hill cantonments."

11. For sub-section (*2*) of section 287 of the said Act the following sub-section shall be substituted, namely:— Amendment of section 287, Act II of 1924.

"(*2*) The Registrar or Sub-Registrar of the district or sub-district formed for the purposes of the Indian Registration Act, 1908, in which any cantonment is situated, shall, when any application for the registration of a document relating to immoveable property within the cantonment is made, cause a copy thereof to be forwarded forthwith to the Cantonment Authority or such other authority as the Governor General in Council may prescribe in this behalf." XVI of 1908.

ACT No. XXXVI OF 1926.[1]

[*9th September, 1926.*]

An Act further to amend the Code of Criminal Procedure, 1898, for a certain purpose.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for the purpose hereinafter appearing; It is hereby enacted as follows :— V of 1898.

Short title.

1. This Act may be called the Code of Criminal Procedure (Third Amendment) Act, 1926.

Amendment of section 99A, Act V of 1898.

2. In sub-section (*1*) of section 99A of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Act),— V of 1898.

(*a*) after the words "seditious matter" the words "or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of His Majesty's subjects" shall be inserted; and

(*b*) after the word and figures "section 124A" the words and figures "or section 153A" shall be inserted.

Amendment of section 99B, Act V of 1898.

3. In section 99B of the said Act, for the words "seditious matter" the words "seditious or other matter of such a nature as is referred to in sub-section (*1*) of section 99A" shall be substituted.

Amendment of section 99D, Act V of 1898.

4. In sub-section (*1*) of section 99D of the said Act, for the words "seditious matter of the nature" the words "seditious or other matter of such a nature as is" shall be substituted.

Amendment of section 99E, Act V of 1898.

5. In section 99E of the said Act, for the words "which are alleged to be seditious matter" the words "in respect of which the order of forfeiture was made" shall be substituted.

ACT No. XXXVII OF 1926.[2]

[*9th September, 1926.*]

An Act to amend the Indian Succession Act, 1925, for a certain purpose.

WHEREAS it is expedient to amend the Indian Succession Act, 1925, for the purpose hereinafter appearing; It is hereby enacted as follows :— XXXIX of 1925.

Short title and commencement.

1. (*1*) This Act may be called the Indian Succession (Amendment) Act, 1926.

(*2*) It shall come into force on the 1st day of January, 1927.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 139.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 138.

XXXIX of 1925. **2.** Section 57 of the Indian Succession Act, 1925, shall be renumbered as sub-section (*1*) of section 57, and to that section the following sub-section shall be added, namely:— **Amendment of section 57, Act XXXIX of 1925.**

"(*2*) The provisions of section 63 shall apply to all wills and codicils made by any Hindu, Buddhist, Sikh or Jaina on or after the 1st day of January, 1927, to which those provisions are not applied by sub-section (*1*)."

ACT No. XXXVIII OF 1926.[1]

[*9th September, 1926.*]

An Act to provide for the constitution of Bar Councils in British India and for other purposes.

WHEREAS it is expedient to provide for the constitution and incorporation of Bar Councils for certain Courts in British India, to confer powers and impose duties on such Bar Councils, and to consolidate and amend the law relating to legal practitioners entitled to practise in such Courts; It is hereby enacted as follows:—

Preliminary.

1. (*1*) This Act may be called the Indian Bar Councils Act, 1926. **Short title, extent, application and commencement.**

(*2*) It extends to the whole of British India, and shall apply to the High Courts of Judicature at Fort William in Bengal, and at Madras, Bombay, Allahabad, Patna and Rangoon and to such other High Courts within the meaning of clause (*24*) of section 3 of the General Clauses Act, 1897, as the Governor General in Council may, by *notification*[2] *in* the Gazette of India, declare to be High Courts to which this Act applies. (1897)

(*3*) This section and sections 2, 17, 18 and 19 shall come into force at once; and the Governor General in Council may, by notification[3] in the Gazette of India, direct that the other provisions of this Act, or any provision thereof specified in the notification, shall come into force in

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 5, and for Report of Select Committee, *see ibid.* p. 119.

[2] For Notification declaring the Chief Court of Oudh to be a High Court to which this Act applies, *see* Gazette of India, 1928, Pt. I, p. 325.

[3] For such Notifications appointing the 1st of March, 1928 as the date on which the rest of the Act will come into force in respect of the Chief Court of Oudh and Ss. 3 to 7 in respect of Calcutta High Court, *see ibid.*

Provisions of Ss. 8-15 came into force from the 1st July, 1928 in respect of Calcutta High Court, *see* Gazette of India, 1928, Pt. I, p. 572.

The rest of the Act came into force from the 16th July, 1928 in respect of Madras High Court, *see* Gazette of India, 1928, Pt. I, p. 522; in respect of Allahabad High Court from 1st June, 1928, *see* Gazette of India, 1928, Pt. I, p. 490; in respect of Patna High Court from 1st January, 1929 *see ibid.*, p. 703; in respect of Bombay and Rangoon High Courts from 1st January, 1929 *see ibid.*, p. 714.

respect of any High Court to which this Act applies on such date as he may by the notification appoint.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "advocate" means an advocate entered in the roll of advocates of a High Court under the provisions of this Act;

(b) "Advocate-General" includes, where there is no Advocate-General, the Government Advocate and, where there is no Advocate-General or Government Advocate, such officer as the Local Government may declare to be the Advocate-General for the purposes of this Act;

(c) "High Court" means a High Court to which this Act applies; and

(d) "prescribed" means prescribed by rules made under this Act.

Constitution of Bar Councils.

Constitution and incorporation of Bar Councils.

3. (1) For every High Court a Bar Council shall be constituted in the manner hereinafter provided.

(2) Every Bar Council so constituted shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract, and shall by the name of the Bar Council of the High Court for which it has been constituted sue and be sued.

Composition of Bar Councils

4. (1) Every Bar Council shall consist of fifteen members, of whom—

(a) one shall be the Advocate-General;

(b) four shall be persons nominated by the High Court, of whom not more than two may be Judges of that Court; and

(c) ten shall be elected by the advocates of the High Court from amongst their number.

(2) Of the elected members of every Bar Council not less than five shall be persons who have for not less than ten years been entitled as of right to practise in the High Court for which the Bar Council has been constituted.

(3) Of the elected members of the Bar Councils to be constituted for the High Courts of Judicature at Fort William in Bengal and at Bombay such proportion as the High Court may direct in each case shall be persons who have, for such minimum period as the High Court

may determine, been entitled to practise in the High Court in the exercise of its original jurisdiction and such number as may be fixed by the High Court out of the said proportion shall be barristers of England or Ireland or members of the Faculty of Advocates in Scotland

(4) There shall be a Chairman and Vice Chairman of each Bar Council elected by the Council in such manner as may be prescribed

Provided that the Advocates-General of Bengal, Madras and Bombay shall be Chairmen *ex officio* respectively of the Bar Councils constituted for the High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay

Special provisions regarding constitution of first Bar Councils

5 (1) Notwithstanding anything contained in clause (c) of sub section (1) of section 4 the elected members of the first Bar Council constituted under this Act for any High Court shall be elected by and from amongst the advocates vakils and pleaders who are on the date of the election entitled as of right to practise in the High Court

(2) The terms of office of the nominated and elected members of any such first Bar Council shall be three years from the date of the first meeting of the Council

Power to make rules regarding constitution and procedure of Bar Councils

6 (1) Rules consistent with this Act may be made to provide for the following matters namely —

(a) the manner in which elections of members of the Bar Council shall be held the method of determining in accordance with the provisions of sub sections (2) and (3) of section 4, the candidates who shall be declared to have been elected the manner in which the result of elections shall be published; and the manner in which and the authority by which doubts and disputes as to the validity of an election shall be finally decided

(b) the terms of office of nominated and elected members of the Council

(c) the filling of casual vacancies in the Council,

(d) the convening of meetings of the Council and the quorum necessary for the transaction of business thereat,

(e) the manner of election and the respective terms of office of the Chairman in cases where the Chairman is to be elected, and of the Vice Chairman and

(f) any matter incidental or ancillary to any of the foregoing matters

(2) The first rules under this section shall be made by the High Court, but the Bar Council may thereafter, with the previous sanction of the High Court, add to, amend or rescind any rules so made.

(3) No election of a member or members to the Council shall be called in question on the ground that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date fixed for the election has, not less than thirty days before that date, been published in the local official Gazette of the province, or of each province, as the case may be, in which the High Court exercises jurisdiction.

(4) Rules made under clause (b) of sub-section (1) may provide for the retirement of members from office by rotation and for the manner in which the order of such retirement shall be determined.

Power of Bar Councils to make bye-laws.

7. The Bar Council may make bye-laws consistent with this Act and any rules made thereunder to provide for any of the following matters, namely :—

(a) the appointment of such ministerial officers and servants as the Bar Council may deem necessary, and the pay and allowances and other conditions of service of such officers and servants; and

(b) the appointment and constitution of Committees of the Council, the procedure of such Committees, and the determination of the powers or duties of the Council which may be delegated to such Committees.

Admission and enrolment of advocates.

Enrolment of advocates.

8. (1) No person shall be entitled as of right to practise in any High Court, unless his name is entered in the roll of the advocates of the High Court maintained under this Act :

Provided that nothing in this sub-section shall apply to any attorney of the High Court

(2) The High Court shall prepare and maintain a roll of advocates of the High Court in which shall be entered the names of—

(a) all persons who were, as advocates, vakils or pleaders, entitled as of right to practise in the High Court immediately before the date on which this section comes into force in respect thereof; and

(b) all other persons who have been admitted to be advocates of the High Court under this Act :

Provided that such persons shall have paid in respect of enrolment the stamp duty, if any chargeable under the Indian Stamp Act, 1899, and a fee, payable to the Bar Council, which shall be ten rupees in the case of the persons referred to in clause (*a*), and in other cases such amount as may be prescribed

[1][(3) Entries in the roll shall be made in the order of seniority, and such seniority shall be determined as follows, namely —

(*a*) all such persons as are referred to in clause (*a*) of sub section (2) shall be entered first in the order in which they were respectively entitled to seniority *inter se* immediately before the date on which this section comes into force in respect of the High Court and

(*b*) the seniority of any other person admitted to be an advocate of the High Court under this Act after that date shall be determined by the date of his admission or, if he is a barrister, by the date of his admission or the date on which he was called to the Bar, whichever date is earlier

Provided that, for the purposes of clause (*b*), the seniority of a person who before his admission to be an advocate was entitled as of right to practise in another High Court shall be determined by the date on which he became so entitled

(4) The respective rights of pre audience of advocates of the High Court shall be determined by seniority

Provided that the Advocate General shall have pre audience over all other advocates, and King's Counsel shall have pre audience over all advocates except the Advocate General]

[2][(5)] The High Court shall issue a certificate of enrolment to every person enrolled under this section

[2][(6)] The High Court shall send to the Bar Council a copy of the roll as prepared under this section and shall thereafter communicate to the Bar Council all alterations in, and additions to, the roll as soon as the same have been made

[2][(7)] The Bar Council shall enter in the copy of the roll all alterations and additions so communicated to it

Qualification and admission of advocates

9 (1) The Bar Council may with the previous sanction of the High Court, make rules to regulate the admission of persons to be advocates of the High Court

[1] These sub sections were inserted by s. 2 of the Indian Bar Councils (Amendment) Act, 1927 (13 of 1927)
[2] Renumbered, *ibid*

(2) The first rules under this section shall be made by the High Court, but the Bar Council may thereafter, with the previous sanction of the High Court, add to, amend or rescind any rules so made.

(3) No election of a member or members to the Council shall be called in question on the ground that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date fixed for the election has, not less than thirty days before that date, been published in the local official Gazette of the province, or of each province, as the case may be, in which the High Court exercises jurisdiction.

(4) Rules made under clause (b) of sub-section (1) may provide for the retirement of members from office by rotation and for the manner in which the order of such retirement shall be determined.

Power of Bar Councils to make bye-laws.

7. The Bar Council may make bye-laws consistent with this Act and any rules made thereunder to provide for any of the following matters, namely :—

(a) the appointment of such ministerial officers and servants as the Bar Council may deem necessary, and the pay and allowances and other conditions of service of such officers and servants; and

(b) the appointment and constitution of Committees of the Council, the procedure of such Committees, and the determination of the powers or duties of the Council which may be delegated to such Committees.

Admission and enrolment of advocates.

Enrolment of advocates.

8. (1) No person shall be entitled as of right to practise in any High Court, unless his name is entered in the roll of the advocates of the High Court maintained under this Act :

Provided that nothing in this sub-section shall apply to any attorney of the High Court

(2) The High Court shall prepare and maintain a roll of advocates of the High Court in which shall be entered the names of—

(a) all persons who were, as advocates, vakils or pleaders, entitled as of right to practise in the High Court immediately before the date on which this section comes into force in respect thereof; and

(b) all other persons who have been admitted to be advocates of the High Court under this Act :

Provided that such persons shall have paid in respect of enrolment the
1899. stamp duty, if any, chargeable under the Indian Stamp Act, 1899, and a fee, payable to the Bar Council, which shall be ten rupees in the case of the persons referred to in clause (*a*), and in other cases such amount as may be prescribed

[1][(*3*) Entries in the roll shall be made in the order of seniority, and such seniority shall be determined as follows, namely —

(*a*) all such persons as are referred to in clause (*a*) of sub section (2) shall be entered first in the order in which they were respectively entitled to seniority *inter se* immediately before the date on which this section comes into force in respect of the High Court, and

(*b*) the seniority of any other person admitted to be an advocate of the High Court under this Act after that date shall be determined by the date of his admission or, if he is a barrister, by the date of his admission or the date on which he was called to the Bar, whichever date is earlier

Provided that, for the purposes of clause (*b*), the seniority of a person who before his admission to be an advocate was entitled as of right to practise in another High Court shall be determined by the date on which he became so entitled.

(*4*) The respective rights of pre audience of advocates of the High Court shall be determined by seniority

Provided that the Advocate General shall have pre audience over all other advocates, and King's Counsel shall have pre-audience over all advocates except the Advocate General]

[2][(*5*)] The High Court shall issue a certificate of enrolment to every person enrolled under this section

[2][(*6*)] The High Court shall send to the Bar Council a copy of the roll as prepared under this section, and shall thereafter communicate to the Bar Council all alterations in, and additions to, the roll as soon as the same have been made

[2][(*7*)] The Bar Council shall enter in the copy of the roll all alterations and additions so communicated to it

9. (*1*) The Bar Council may, with the previous sanction of the High Court, make rules to regulate the admission of persons to be advocates of the High Court : Qualification and admission of advocates

[1] These sub sections were inserted by s 2 of the Indian Bar Councils (Amendment) Act 1927 (13 of 1927)
[2] Renumbered, *ibid*

Provided that such rules shall not limit or in any way affect the power of the High Court to refuse admission to any person at its discretion.

(2) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for the following matters, namely :—

(a) the qualifications to be possessed by persons applying for admission as advocates;

(b) the form and manner in which applications shall be made to the High Court for admission;

(c) the giving of notice by the High Court to the Bar Council of all such applications;

(d) the hearing by the High Court of any objection preferred on behalf of the Bar Council to the admission of any applicant; and

(e) the charging of fees payable to the Bar Council in respect of enrolment.

(3) Rules made under this section shall provide that no woman shall be disqualified for admission to be an advocate by reason only of her sex.

(4) Nothing in this section or in any other provision of this Act shall be deemed to limit or in any way affect the powers of the High Courts of Judicature at Fort William in Bengal and at Bombay to prescribe the qualifications to be possessed by persons applying to practise in those High Courts respectively in the exercise of their original jurisdiction or the powers of those High Courts to grant or refuse, as they think fit, any such application [1][or to prescribe the conditions under which such persons shall be entitled to practise or plead.]

Misconduct.

ishment of advocate for misconduct.

10. (1) The High Court may, in the manner hereinafter provided, reprimand, suspend or remove from practice any advocate of the High Court whom it finds guilty of professional of other misconduct.

(2) Upon receipt of a complaint made to it by any Court or by the Bar Council or by any other person that any such advocate has been guilty of misconduct, the High Court shall, if it does not summarily reject the complaint, refer the case for inquiry either to the Bar Council or, after consultation with the Bar Council, to the Court of a District

[1] These words were inserted by s. 3 of the Indian Bar Councils (Amendment) Act, 1927 (13 of 1927).

Judge (hereinafter referred to as a District Court) and may of its own motion so refer any case in which it has otherwise reason to believe that any such advocate has been so guilty.

11. (*1*) Where any case is referred for inquiry to the Bar Council under section 10 the case shall be inquired into by a Committee of the Bar Council (hereinafter referred to as the Tribunal). **Tribunal of Bar Council.**

(*2*) The Tribunal shall consist of not less than three and not more than five members of the Bar Council appointed for the purpose of the inquiry by the Chief Justice or Chief Judge of the High Court and one of the members so appointed shall be appointed to be the President of the Tribunal.

12. (*1*) The High Court shall make rules to prescribe the procedure to be followed by Tribunals and by District Courts respectively, in the conduct of inquiries referred under section 10. **Procedure in Inquiries.**

(*2*) The finding of a Tribunal on an inquiry referred to the Bar Council under section 10 shall be forwarded to the High Court through the Bar Council and the finding of a District Court on such an inquiry shall be forwarded direct to the High Court which shall cause a copy thereof to be sent to the Bar Council.

(*3*) On receipt of the finding the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned and to the Bar Council and to the Advocate General, and shall afford the advocate concerned and/the Bar Council and the Advocate General an opportunity of being heard before orders are passed in the case.

(*4*) The High Court may thereafter either pass such final orders in the case as it thinks fit or refer it back for further inquiry to the Tribunal through the Bar Council or to the District Court as the case may be, and, upon receipt of the finding after such further inquiry, deal with the case in the manner provided in sub-section (*3*) and pass final orders thereon.

(*5*) In passing final orders the High Court may pass such order as regards the payment of the costs of the inquiry and of the hearing in the High Court as it thinks fit.

(*6*) The High Court may of its own motion or on application made to it in this behalf revise any order passed under sub-section (*4*) or sub-section (*5*) and in so doing may make such order as it thinks fit.

(*7*) Where any advocate is reprimanded or suspended under this Act, a record of the punishment shall be entered against his name in the roll

of advocates of the High Court, and when an advocate is removed from practice his name shall forthwith be struck off the roll; and the certificate of any advocate so suspended or removed shall be recalled.

Powers of the Tribunal and Courts in Inquiries.

13. (*1*) For the purposes of any such inquiry as aforesaid, a Tribunal or a District Court shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely :— V of 1908.

(*a*) enforcing the attendance of any person and examining him upon oath,

(*b*) compelling the production of documents, and

(*c*) issuing commissions for the examination of witnesses:

Provided that the Tribunal shall not have power to require the attendance of the presiding officer of any Court save with the previous sanction of the High Court or, in the case of an officer of a Criminal or Revenue Court, of the Local Government.

(*2*) Every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code; XLV of 1860. and a Tribunal shall be deemed to be a Civil Court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898. V of 1898.

(*3*) For the purpose of enforcing the attendance of any person and examining him upon oath or of compelling the production of documents or of issuing commissions—

(*a*) the local limits of the jurisdiction of a Tribunal shall be those of the jurisdiction of the High Court by which the Tribunal has been constituted; and

(*b*) a Tribunal may send to any Civil Court having jurisdiction in the place where the Tribunal is sitting any summons or other process for the attendance of a witness or the production of a document required by the Tribunal, or any commission which it desires to issue, and the Civil Court shall serve such process or issue such commission, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

(*4*) Proceedings before a Tribunal or a District Court in any such inquiry shall be deemed to be civil proceedings for the purposes of section 132 of the Indian Evidence Act, 1872, and the provisions of that *I of 1872.* section shall apply accordingly.

Miscellaneous

14. (*1*) An advocate shall be entitled as of right to practise— Right of advocates to practise

(*a*) subject to the provisions of sub section (*1*) of section 9, in the High Court of which he is an advocate, and

(*b*) save as otherwise provided by sub section (*2*) or by or under any other law for the time being in force in any other Court in British India and before any other Tribunal or person legally authorised to take evidence, and

(*c*) before any other authority or person before whom such advocate is by or under the law for the time being in force entitled to practise

(*2*) Where rules have been made by any High Court within the
1897. meaning of clause (*21*) of section 3 of the General Clauses Act, 1897 or in the case of a High Court for which a Bar Council has been constituted under this Act, by such Bar Council under section 15 regulating the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court, such advocates shall not be entitled to practise therein otherwise than subject to such conditions

(*3*) Nothing in this section shall be deemed to limit or in any way affect the power of the High Court of Judicature at Fort William in Bengal or of the High Court of Judicature at Bombay to make rules determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction

15 A Bar Council may, with the previous sanction of the High Court for which it is constituted make rules consistent with this Act to provide for and regulate any of the following matters namely — General power of Bar Councils to make rules

(*a*) the rights and duties of the advocates of the High Court and their discipline and professional conduct

(*b*) the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court,

(*c*) the giving of facilities for legal education and training and the holding and conduct of examinations by the Bar Council,

(*d*) the charging of fees payable to the Bar Council in respect of the enjoyment of educational facilities provided, or of the right to appear at examinations held by the Bar Council

(*e*) the investment and management of the funds of the Bar Council, and

(*f*) any other matter in respect of which the High Court may require rules to be made under this section

Power to fix fees payable as costs.

16. The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or in any Court subordinate thereto.

Indemnity against legal proceedings.

17. No suit or other legal proceeding shall lie against a Bar Council or any Committee, Tribunal or member of a Bar Council for any act in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule made thereunder.

Publication of rules.

18. All rules made under this Act shall be published in the local official Gazette of the province, or of each province, as the case may be, in which the High Court by which or with whose sanction the rules are made exercises jurisdiction.

Amendment of enactments, etc.

19. *(1)* When sections 8 to 16 come into force in respect of any High Court, any enactment mentioned in the first column of the Schedule which is in force in any province in which the High Court exercises jurisdiction shall, for the purpose of its application to that province, be amended to the extent and in the manner specified in the second column of the Schedule.

(2) When sections 8 to 16 come into force in respect of any High Court of Judicature established by Letters Patent, this Act shall have effect in respect of such Court notwithstanding anything contained in such Letters Patent, and such Letters Patent shall, in so far as they are inconsistent with this Act or any rules made thereunder, be deemed to have been repealed.

(3) When sections 8 to 16 come into force in respect of the High Court of Judicature at Bombay, the Bombay Pleaders' Act, 1920, except section 7 thereof, shall cease to apply to or in respect of any person enrolled as an advocate of the High Court under this Act, and nothing in that Act shall be deemed to authorise the admission or enrolment of any person as a vakil or pleader of the High Court.

Bom. Act XVII of 1920.

(4) When this Act has come into force in respect of any High Court, any provision of any other enactment or any order, scheme, rule, form or bye-law made thereunder, which was before that date applicable to advocates, vakils or pleaders entitled to practise in such High Court shall, unless such a construction is repugnant to the context or to any provision made by or under this Act, be construed as applying to advocates of the High Court enrolled under this Act.

THE SCHEDULE.

(See section 19.)

AMENDMENT OF ENACTMENTS

Enactments amended.	Extent and manner of amendment
The Legal Practitioners Act, 1879	(1) In section 4, after the words " with the permission of the Court " the words and figures " or, in the case of a High Court in respect of which the Indian Bar Councils Act, 1926, is in force, subject to rules made under that Act " shall be inserted
	(2) In section 6, clauses (a) and (b), after the words " Royal Charter " the words and figures " in respect of which the Indian Bar Councils Act, 1926, is not in force " shall be inserted
	(3) To section 38 the following words and figures shall be added, namely :— " and, except as provided by section 36 nothing in this Act applies to persons enrolled as advocates of any High Court under the Indian Bar Councils Act, 1926 "
	(4) In section 41, sub section (1) after the words " Royal Charter " the words and figures " in respect of which the Indian Bar Councils Act, 1926, is not in force " shall be inserted
The Indian Stamp Act, 1899	In Article 30 of the First Schedule after the words " High Court," where they first occur, the words and figures " under the Indian Bar Councils Act, 1926, or " shall be inserted
The Madras Stamp (Amendment) Act, 1922.	In Article 25 of Schedule 1A, after the words " High Court," where they first occur, the words and figures " under the Indian Bar Councils Act, 1926, or " shall be inserted
The Bengal Stamp (Amendment) Act, 1922	In Article 30 of Schedule 1A, after the words " High Court," where they first occur, the words and figures " under the Indian Bar Councils Act, 1926, or " shall be inserted
The Indian Stamp (Punjab Amendment) Act, 1922.	In Article 30 of Schedule 1A, after the words " High Court," where they first occur, the words and figures " under the Indian Bar Councils Act, 1926, or " shall be inserted
The Assam Stamp (Amendment) Act, 1922.	In Article 30 of Schedule 1A, after the words " High Court," where they first occur, the words and figures " under the Indian Bar Councils Act, 1926, or " shall be inserted

ACT No. XXXIX OF 1926.[1]

[*9th September, 1926.*]

An Act further to amend the Provincial Insolvency Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Provincial Insolvency Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows:— V of 1920.

Short title.

1. This Act may be called the Provincial Insolvency (Amendment) Act, 1926.

Amendment of section 33, Act V of 1920.

2. In sub-section (*3*) of section 33 of the Provincial Insolvency Act, 1920 (hereinafter referred to as the said Act), for the word "insolvent", where it occurs for the last time, the word "receiver" shall be substituted. V of 1920.

Insertion of new section 54A in Act V of 1920.

3. After section 54 of the said Act the following section shall be inserted, namely :—

By whom petitions for annulment may be made.

"54A. A petition for the annulment of any transfer under section 53, or of any transfer, payment, obligation or judicial proceeding under section 54, may be made by the receiver or, with the leave of the Court, by any creditor who has proved his debt and who satisfies the Court that the receiver has been requested and has refused to make such petition."

Insertion of new section 59A in Act V of 1920.

4. After section 59 of the said Act the following section shall be inserted, namely :—

Power to require information regarding insolvent's property.

"59A. (*1*) The Court, if specially empowered in this behalf by an order of the Local Government, or any officer of the Court so empowered by a like order, may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent, or any person whom the Court or such officer, as the case may be, may deem capable of giving information respecting the insolvent or his dealings or property, and the Court or such officer may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(*2*) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court or such officer at the time appointed, or refuses to produce any such document, having no lawful

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1926, Pt. V, p. 136.

impediment made known to and allowed by the Court or such officer, the Court or such officer may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court or such officer may examine any person so brought before it or him concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner."

5. After section 67 of the said Act the following section shall be inserted, namely:— Insertion of new section 67A in Act V of 1920.

"67A. (1) The Court may, if it thinks fit, authorise the creditors who have proved their debts to appoint a committee of inspection for the purpose of superintending the administration of the insolvent's property by the receiver. Committee of inspection.

(2) The persons appointed to a committee of inspection shall be creditors who have proved their debts or persons holding general powers-of-attorney from such creditors.

(3) The committee of inspection shall have such powers of control over the proceedings of the receiver as may be prescribed."

6. In sub-section (2) of section 79 of the said Act, the word "and" at the end of clause (c) shall be omitted, and after clause (d) the following clause shall be added, namely:— Amendment of section 79, Act V of 1920.

"and

(e) for any matter which is to be or may be prescribed."

7. [*Amendment of section 80, Act V of 1920.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

ACT No. XL OF 1926 [1]

[*9th September, 1926.*]

An Act to amend the provisions of section 33 of the Indian Succession Act, 1925.

WHEREAS it is expedient to amend the provisions of section 33 of the Indian Succession Act, 1925, so as to provide more liberally for the surviving widow or husband where there are no lineal descendants in the case of a total intestacy; It is hereby enacted as follows:—

1. This Act may be called the Indian Succession [2][(Second Amendment)] Act, 1926. Short title.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1926, Pt. V, p. 114.

[2] These words were substituted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

Amendment of section 33, Act XXXIX of 1925.

2. To clause (*b*) of section 33 of the Indian Succession Act, 1925 (hereinafter referred to as the said Act), before the words "If he has left no lineal descendant" there shall be prefixed the words "Save as provided by section 33A". XXXIX of 1925.

Insertion of new section 33A in Act XXXIX of 1925.

3. After section 33 of the said Act the following section shall be inserted, namely :—

Special provision where intestate has left widow and no lineal descendants.

"33A. (*1*) Where the intestate has left a widow but no lineal descendants and the nett value of his property does not exceed five thousand rupees, the whole of his property shall belong to the widow.

(*2*) Where the nett value of the property exceeds the sum of five thousand rupees, the widow shall be entitled to five thousand rupees thereof and shall have a charge upon the whole of such property for such sum of five thousand rupees, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment.

(*3*) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the estate of such intestate remaining after payment of the said sum of five thousand rupees, with interest as aforesaid, and such residue shall be distributed in accordance with the provisions of section 33 as if it were the whole of such intestate's property.

(*4*) The nett value of the property shall be ascertained by deducting from the gross value thereof all debts, and all funeral and administration expenses of the intestate, and all other lawful liabilities and charges to which the property shall be subject.

(*5*) This section shall not apply—

(*a*) to the property of :—

(i) any Indian Christian,

(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or

(iii) any person professing the Hindu, Buddhist, Sikh or Jaina religion the succession to whose property is, under section 24 of the Special Marriage Act, 1872, regulated by the provisions of this Act; III of 1872.

(*b*) unless the deceased dies intestate in respect of all his property."

ACT No I OF 1927.[1]

[*18th February, 1927*.]

An Act further to amend the Indian Limitation Act, 1908, for certain purposes.

IX of 1908. WHEREAS it is expedient further to amend the Indian Limitation Act, 1908, for certain purposes hereinafter appearing, It is hereby enacted as follows :—

Short title and commencement. **1.** (*1*) This Act may be called the Indian Limitation (Amendment) Act, 1927.

(*2*) It shall come into force on the 1st day of January, 1928.

Amendment of section 20, Act IX of 1908. **2.** For the proviso to sub-section (*1*) of section 20 of the Indian Limitation Act, 1908 (hereinafter referred to as the said Act), the following shall be substituted, namely :—

"Provided that, save in the case of a payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment."

Amendment of section 21, Act IX of 1908. **3.** To section 21 of the said Act the following sub-section shall be added, namely :—

"(*3*) for the purposes of the said sections—

(*a*) an acknowledgment signed, or a payment made, in respect of any liability, by, or by the duly authorised agent of, any widow or other limited owner of property who is governed by the Hindu law, shall be a valid acknowledgment or payment, as the case may be, as against a reversioner succeeding to such liability ; and

(*b*) where a liability has been incurred by, or on behalf of, a Hindu undivided family as such, an acknowledgment or payment made by, or by the duly authorised agent of, the manager of the family for the time being shall be deemed to have been made on behalf of the whole family."

Amendment of first schedule to Act IX of 1908. **4.** (*1*) In article No. 132 in the First Division of the First Schedule to the said Act, for the *Explanation* in the first column the following *Explanation* shall be substituted, namely :—

"*Explanation.*—For the purposes of this article—

(*a*) the allowance and fees respectively called *malikana* and *haqqs*, and

(*b*) the value of any agricultural or other produce the right to receive which is secured by a charge upon immoveable property,

shall be deemed to be money charged upon immoveable property."

[1] For Statement of Objects and Reasons, see Gazette of India, 1927, Pt. V, p. 5.

Amendment of section 33, Act XXXIX of 1925.

2. To clause (*b*) of section 33 of the Indian Succession Act, 1925 (hereinafter referred to as the said Act), before the words "If he has left no lineal descendant" there shall be prefixed the words "Save as provided by section 33A". XXXIX of 1925.

Insertion of new section 33A in Act XXXIX of 1925.

3. After section 33 of the said Act the following section shall be inserted, namely :—

Special provision where intestate has left widow and no lineal descendants.

"33A. (*1*) Where the intestate has left a widow but no lineal descendants and the nett value of his property does not exceed five thousand rupees, the whole of his property shall belong to the widow.

(*2*) Where the nett value of the property exceeds the sum of five thousand rupees, the widow shall be entitled to five thousand rupees thereof and shall have a charge upon the whole of such property for such sum of five thousand rupees, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment.

(*3*) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the estate of such intestate remaining after payment of the said sum of five thousand rupees, with interest as aforesaid, and such residue shall be distributed in accordance with the provisions of section 33 as if it were the whole of such intestate's property.

(*4*) The nett value of the property shall be ascertained by deducting from the gross value thereof all debts, and all funeral and administration expenses of the intestate, and all other lawful liabilities and charges to which the property shall be subject.

(*5*) This section shall not apply—

(*a*) to the property of :—

(i) any Indian Christian,

(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or

(iii) any person professing the Hindu, Buddhist, Sikh or Jaina religion the succession to whose property is, under section 24 of the Special Marriage Act, 1872, regulated by the provisions of this Act; III of 1872.

(*b*) unless the deceased dies intestate in respect of all his property."

ACT No. I OF 1927.[1]

[*18th February, 1927.*]

An Act further to amend the Indian Limitation Act, 1908, for certain purposes.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908, for certain purposes hereinafter appearing; It is hereby enacted as follows:— f 1908.

Short title and commencement.

1. (*1*) This Act may be called the Indian Limitation (Amendment) Act, 1927.

(*2*) It shall come into force on the 1st day of January, 1928.

Amendment of section 20, Act IX of 1908.

2. For the proviso to sub-section (*1*) of section 20 of the Indian Limitation Act, 1908 (hereinafter referred to as the said Act), the following shall be substituted, namely:— of 1908.

"Provided that, save in the case of a payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment."

Amendment of section 21, Act IX of 1908.

3. To section 21 of the said Act the following sub-section shall be added, namely:—

"(3) for the purposes of the said sections—

(*a*) an acknowledgment signed, or a payment made, in respect of any liability, by, or by the duly authorised agent of, any widow or other limited owner of property who is governed by the Hindu law, shall be a valid acknowledgment or payment, as the case may be, as against a reversioner succeeding to such liability; and

(*b*) where a liability has been incurred by, or on behalf of, a Hindu undivided family as such, an acknowledgment or payment made by, or by the duly authorised agent of, the manager of the family for the time being shall be deemed to have been made on behalf of the whole family."

Amendment of first schedule to Act IX of 1908.

4. (*1*) In article No. 132 in the First Division of the First Schedule to the said Act, for the *Explanation* in the first column the following *Explanation* shall be substituted, namely:—

"*Explanation.*—For the purposes of this article—

(*a*) the allowance and fees respectively called *malikana* and *haqqs*, and

(*b*) the value of any agricultural or other produce the right to receive which is secured by a charge upon immoveable property,

shall be deemed to be money charged upon immoveable property."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 5.

(2) In article No. 166 in the Third Division of the same Schedule, to the entry in the first column the following shall be added, namely :—

"including any such application by a judgment debtor."

ACT No. II OF 1927.[1]

[*18th February, 1927.*]

An Act further to amend the Indian Registration Act, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Registration Act, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows :— XVI of 1908.

Short title. **1.** This Act may be called the Indian Registration (Amendment) Act, 1927.

Amendment of section 17, Act XVI of 1908. **2.** In sub-section (2) of section 17 of the Indian Registration Act, 1908, after clause (xii), the following *Explanation* shall be inserted, namely :— XVI of 1908.

"*Explanation.*—A document purporting or operating to effect a contract for the sale of immoveable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money."

ACT No. III OF 1927.[2]

[*8th March, 1927.*]

An Act to provide for the continuance of the protection of the steel industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, that increased import duties should continue to be levied on certain iron and steel articles for the purpose of fostering

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 6.

[2] For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, 1927, p. 52.

and developing the steel industry in British India, and that the rates of the duties leviable in the application of that policy should be fixed for a period of seven years from the 1st day of April, 1927, It is hereby enacted as follows —

1 (*1*) This Act may be called the Steel Industry (Protection) Act, 1927 Short title and commencement.

(*2*) It shall come into force on the 1st day of April, 1927

2. (*1*) For sub section (*4*) of section 3 of the Indian Tariff Act, 1894, the following sub sections shall be substituted, namely — Amendment of section 3, Act VIII of 1894

"(*4*) If the Governor General in Council is satisfied, after such inquiry as he thinks necessary, that articles of British manufacture chargeable with duty under Part VII of the Second Schedule are being imported into British India at such a price as is likely to render ineffective the protection intended to be afforded by such duty to similar articles manufactured in India he may, by notification in the Gazette of India, increase such duty to such extent as he thinks necessary

(*5*) If the Governor General in Council is satisfied after such inquiry as he thinks necessary, that articles not of British manufacture chargeable under Part VII of the Second Schedule with a higher duty than similar articles of British manufacture are being imported into British India from any place outside India at such a price as is likely to render ineffective or excessive the protection intended to be afforded by such duty to similar articles manufactured in India he may by notification in the Gazette of India, increase or reduce such duty to such extent as he thinks necessary either generally or in respect of such articles when imported from or manufactured in any country or countries specified in the notification

Provided that the duty leviable on any such article shall in no case be less than the duty leviable on a like article of British manufacture

(*6*) The Governor General in Council may by notification in the Gazette of India prescribe the conditions subject to which articles shall be deemed to be of British manufacture for the purposes of this section and of the Second Schedule "

(*2*) In the Second Schedule to the same Act there shall be made the amendments specified in the Schedule to this Act

(*3*) The amendments made by this section other than those made in
I of 1894 Parts I and II of the Second Schedule to the Indian Tariff Act, 1894,
shall have effect only up to the 31st day of March 1934

Statutory inquiry.

3. The Governor General in Council shall, not later than the 31st day of March, 1934, cause to be made, by such persons as he may appoint in this behalf, an inquiry as to the extent, if any, to which it is necessary to continue the protection of the steel industry in British India and as to the manner in which any protection found necessary should be conferred.

4. [*Repeal of Act XIV of 1924.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

THE SCHEDULE.

AMENDMENTS TO BE MADE IN SCHEDULE II OF THE INDIAN TARIFF ACT, 1894.

(*See section 2.*)

1. In Part I after item No. 20 the following item shall be inserted, namely :—

" 20A	Zinc, unwrought, including cakes, ingots, tiles (other than boiler tiles), hard or soft slabs and plates, dust, dross and ashes ; and broken zinc."

2. In Part II—

(*a*) in the heading, after the words "liable to " the word "non-protective" shall be inserted ; and

(*b*) after item No. 39 the following heading and item shall be inserted, namely :—

"METALS.

39A	TIN, block	Ton .	Rs. 250 "

3. For items Nos. 60, 61 and 62 and the heading thereto the following shall be substituted, namely :—

"METALS—IRON AND STEEL.

60	Iron alloys. Iron angle, channel and tee not otherwise specified (*see* No. 143). Iron bar and rod not otherwise specified (*see* No. 144). Iron pig. Iron rice bowls.

THE SCHEDULE—*contd.*

61 Iron or Steel anchors and cables.

Iron or Steel bolts and nuts, including hook-bolts and nuts for roofing.

Iron or Steel hoops and strips

Iron or Steel nails, rivets and washers, all sorts, not otherwise specified (*see* No. 145).

Iron or Steel pipes and tubes ; also fittings therefor, that is to say, bends,

Iro

... including bearing plates, cast iron sleepers and fastenings therefor, and lever-boxes.

Iron or Steel tramway track material, not otherwise specified (*see* No 150), including rails, fish plates, tie-bars, switches, crossings and the like materials of shapes and sizes specially adapted for tramway tracks

whether fabricated or not

Iron or Steel barbed or stranded fencing wire and wire rope

Iron or Steel (other than bar or rod) specially designed for the reinforcement of concrete.

Iron or Steel expanded metal

62 ... process. ... es or more.

(*a*) shapes specially designed for the reinforcement of concrete, if the smallest dimension is under ⅜ inch,

(*b*) all shapes and sizes, if—

(*i*) of alloy, crucible, shear, blister or tub steel, or

(*ii*) galvanised or coated with other metals, or

(*iii*) planished or polished, including bright steel shafting ;

(*c*) other qualities, if of any of the following shapes and sizes—

(*i*) rounds under ½ inch diameter,

(*ii*) squares under ½ inch side,

(*iii*) flats, if under 1 inch wide and not over ½ inch thick,

(*iv*) flats not under 8 inches wide and not over ⅜ inch thick,

(*v*) ovals, if the dimension of the major axis is not less than twice that of the minor axis,

(*vi*) all other shapes, any size "

4. For item No. 63 and the heading thereto the following shall be substituted, namely :—

"RAILWAY PLANT AND ROLLING-STOCK.

63 Railway materials for permanent way and rolling stock, namely, sleepers, other than iron and steel, and fastenings therefor ; bearing plates, fish bolts and nuts, chairs, interlocking apparatus, brake gear, shunting skids couplings and springs, signals, turn tables, weighbridges, carriages, wagons traversers, rail removers, scooters, trollies, trucks, and component parts thereof ; switches, crossings and the like materials made of alloy steel ; also ... water cranes and water tanks when imported by or under the orders

... ans a line of railway ... 890, and includes a

Statutory inquiry.

3. The Governor General in Council shall, not later than the 31st day of March, 1934, cause to be made, by such persons as he may appoint in this behalf, an inquiry as to the extent, if any, to which it is necessary to continue the protection of the steel industry in British India and as to the manner in which any protection found necessary should be conferred.

4. *[Repeal of Act XIV of 1924.] Repealed by the Repealing Act, 1927 (12 of 1927).*

THE SCHEDULE.

AMENDMENTS TO BE MADE IN SCHEDULE II OF THE INDIAN TARIFF ACT, 1894.

(See section 2.)

1. In Part I after item No. 20 the following item shall be inserted, namely :—

"20A | Zinc, unwrought, including cakes, ingots, tiles (other than boiler tiles), hard or soft slabs and plates, dust, dross and ashes ; and broken zinc."

2. In Part II—

(a) in the heading, after the words "liable to" the word "non-protective" shall be inserted; and

(b) after item No. 39 the following heading and item shall be inserted, namely :—

"METALS.

39A	TIN, block	Ton .	Rs. 250"

3. For items Nos. 60, 61 and 62 and the heading thereto the following shall be substituted, namely :—

"METALS—IRON AND STEEL.

60 | Iron alloys.
Iron angle, channel and tee not otherwise specified (*see* No. 143).
Iron bar and rod not otherwise specified (*see* No. 144).
Iron pig.
Iron rice bowls.

THE SCHEDULE—*contd*

61 Iron or Steel anchors and cables
Iron or Steel bolts and nuts including hook bolts and nuts for roofing
Iron or Steel hoops and strips
Iron or Steel nails, rivets and washers all sorts not otherwise specified (*see* No 145)
Iron or Steel pipes and tubes, also fittings therefor that is to say bends, [illegible]

Iro [illegible] d
[illegible] erefor,

[illegible] o 150)
[illegible] mate-
rials of shapes and sizes specially adapted for tramway tracks
Iron or Steel sheets (including cuttings discs and circles) under ⅛ inch thick whether fabricated or not, if coated with metals other than tin or zinc
Iron or Steel plates and sheets (including cuttings discs and circles) not under ⅛ inch thick not otherwise specified (*see* Nos 146 147 153 and 154), whether fabricated or not
Iron or Steel barbed or stranded fencing wire and wire rope
Iron or Steel (other than bar or rod) specially designed for the reinforcement of concrete
Iron or Steel expanded metal

62 Steel, angle and tee if galvanized tinned or lead coated
Steel (other than bars) alloy crucible shear blister and tub [illegible]

[illegible]

est dimension is under ½ inch
(b) all shapes and sizes if—
(i) of alloy crucible shear blister or tub steel, or
(ii) galvanised or coated with other metals or
(iii) planished or polished including bright steel shafting,
(c) other qualities if of any of the following shapes and sizes—
(i) rounds under ½ inch diameter,
(ii) squares under ½ inch side
(iii) flats if under 1 inch wide and not over ⅜ inch thick
(iv) flats not under 8 inches wide and not over ⅜ inch thick
(v) ovals if the dimension of the major axis is not less than twice that of the minor axis
(vi) all other shapes any size

4. For item No 63 and the heading thereto the following shall be substituted, namely —

"RAILWAY PLANT AND ROLLING-STOCK

63 Railway materials for permanent way and rolling stock namely, sleepers, other than iron and steel and fastenings therefor, bearing plates, fish bolts and nuts chairs interlocking apparatus brake gear, shunting skids [illegible]

Provided that for the purpose of this entry "railway" means a line of railway subject to the provisions of the Indian Railways Act, 1890 and includes a railway constructed in a State in India and also such tramways as the Governor General in Council may, by notification in the Gazette of India, specifically include therein
Provided also that nothing shall be deemed to be dutiable hereunder which is dutiable under No 51 or No 51A

THE SCHEDULE—*contd.*

5. In Item No. 87, before the word "tramcars" the words "Conveyances not specified in No. 142, namely," shall be inserted.

6. After Part VI the following Part shall be inserted, namely :—

"PART VII.

Articles which are liable to protective duty at special rates.

No.	Name of article.	Rate of duty.
	CONVEYANCES.	
142	COAL TUBS, tipping wagons and the like conveyances designed for use on light rail track, if adapted to be worked by manual or animal labour and if made mainly of iron or steel ; and component parts thereof made of iron or steel—	
	(*a*) if of British manufacture . . .	Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher.
	(*b*) if not of British manufacture . .	Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 15 per ton.
	METALS—IRON AND STEEL.	
143	IRON angle, channel and tee—	
	(*a*) fabricated, all qualities—	
	(*i*) of British manufacture . . .	Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher.
	(*ii*) not of British manufacture . .	Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 15 per ton.
	(*b*) not fabricated kinds other than galvanized, tinned or lead-coated and other than Crown or superior qualities—	
	(*i*) of British manufacture . . .	Rs. 19 per ton.
	(*ii*) not of British manufacture . .	Rs. 30 per ton.

THE SCHEDULE—*contd.*

No.	Name of Article	Rate of duty.
144	IRON, COMMON BAR not galvanized, tinned or lead coated if not of any shape and dimension specified in clause (a) or clause (c) of No 62—	
	(i) of British manufacture . .	Rs 26 per ton
	(ii) not of British manufacture . .	Rs 37 per ton
145	IRON OR STEEL NAILS, wire or French .	Rs 3 per cwt
146	IRON OR STEEL PIPES and tubes and fittings therefor, if riveted or otherwise built up of plates or sheets—	
	(a) galvanized . . .	Rs 33 per ton or 17 per cent *ad valorem*, whichever is higher.
	(b) not galvanized—	
	(i) not under ⅛ inch thick—	
	of British manufacture .	Rs 21 per ton or 17 per cent *ad valorem*, whichever is higher.
	not of British manufacture . .	Rs 21 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs 15 per ton.
	(ii) under ⅛ inch thick—	
	of British manufacture . .	Rs. 39 per ton or 17 per cent. *ad valorem*, whichever is higher.
	not of British manufacture . .	Rs 39 per ton or 17 per cent *ad valorem*, whichever is higher, *plus* Rs 26 per ton
147	IRON OR STEEL plates or sheets (including cuttings, discs and circles) not under ⅛ inch thick and not of cast iron—	
	(a) fabricated, all qualities—	
	(i) of British manufacture . . .	Rs 21 per ton or 17 per cent. *ad valorem*, whichever is higher
	(ii) not of British manufacture . .	Rs 21 per ton or 17 per cent *ad valorem*, whichever is higher, *plus* Rs 15 per ton.
	(b) not fabricated, chequered and ship, tank, bridge and common qualities—	
	(i) of British manufacture . . .	Rs 20 per ton
	(ii) not of British manufacture . .	Rs 36 per ton.

THE SCHEDULE—*contd.*

No.	Name of Article	Rate of duty.
150	IRON OR STEEL RAILWAY TRACK MATERIAL—*contd.*	
	A Rails (including tramway rails the heads of which are not grooved)—*contd*	
	(iii) spikes and tie bars therefor—	
	of British manufacture . .	Rs 26 per ton.
	not of British manufacture	Rs 37 per ton
	(b) under 30 lbs per yard, and fish plates, spikes and tie bars therefor—	
	if of British manufacture . .	Rs 26 per ton
	if not of British manufacture .	Rs 37 per ton
	[illegible]	
	terials for tramway rails the heads of which are not grooved—	
	(i) for rails 30 lbs per yard and over .	Rs 14 per ton or 17 per cent *ad valorem*, whichever is higher
	(ii) for rails under 30 lbs per yard—	
	of British manufacture .	Rs 29 per ton or 17 per cent *ad valorem*, whichever is higher
	not of British manufacture . .	Rs 29 per ton or 17 per cent *ad valorem*, whichever is higher, *plus* Rs 12 per ton
	C Sleepers other than cast iron and keys and distance pieces and the like for use with such sleepers . . .	Rs 10 per ton or 10 per cent *ad valorem*, whichever is higher
151	STEEL, angle and tee, not otherwise specified (*see* No 62) and beam, channel, zed, trough and piling—	
	(a) fabricated—	
	(i) of British manufacture . .	Rs 21 per ton or 17 per cent *ad valorem*, whichever is higher
	(ii) not of British manufacture . .	Rs. 21 per ton or 17 per cent *ad valorem*, whichever is higher, *plus* Rs 15 per ton
	(b) not fabricated—	
	(i) of British manufacture . . .	Rs 10 per ton
	(ii) not of British manufacture . .	Rs 30 per ton.

THE SCHEDULE—*concld.*

No.	Name of Article.	Rate of duty.
152	STEEL, bar and rod, not otherwise specified (*see* No. 62)—	
	(*i*) of British manufacture . . .	Rs. 26 per ton.
	(*ii*) not of British manufacture . .	Rs. 37 per ton.
153	STEEL STRUCTURES, fabricated partially or wholly, not otherwise specified, if made mainly or wholly of steel bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, wellcurbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware (*see* No. 90) or any of the articles specified in Nos. 51, 51A, 64 or 87—	
	(*i*) of British manufacture . . .	Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher.
	(*ii*) not of British manufacture . .	Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 15 per ton.
154	STEEL, tinplates and tinned sheets, including tin taggers and cuttings of such plates, sheets or taggers.	Rs. 48 per ton."

ACT No. IV OF 1927.[1]

[26th March, 1927.]

An Act further to amend the Indian Coinage Act, 1906, and the Indian Paper Currency Act, 1923, for certain purposes, and to lay upon the Governor General in Council certain obligations in regard to the purchase of gold and the sale of gold or sterling.

WHEREAS it is expedient further to amend the Indian Coinage Act, 1906, and the Indian Paper Currency Act, 1923, for certain purposes, and to lay upon the Governor General in Council certain obligations in regard to the purchase of gold and the sale of gold or sterling; It is hereby enacted as follows:— III of 1906. X of 1923.

Short title, extent and commencement.

1. (*1*) This Act may be called the Currency Act, 1927.

[1] For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, 1927, p. 28.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

(3) It shall come into force on the 1st day of April, 1927.

1906 2. In the Indian Coinage Act, 1906,— Amendment of Act III of 1906.

(a) for section 11 the following section shall be substituted, namely —

"11 Gold coins, whether coined at His Majesty's Royal Mint or at any Mint established in pursuance of a proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall not be legal tender in British India in payment or on account, but such coins shall be received at any Government currency office and, at any time after the 30th day of September, 1927, at any Government Treasury other than a Sub-Treasury, at the bullion value of such coins calculated at the rate of 8 47512 grains troy of fine gold per rupee"; and Demonetization of sovereign and half-sovereign.

(b) the word "and" at the end of clause (d) of sub-section (2) of section 21 and clause (e) of that sub section shall be omitted

1923 3. In the Indian Paper Currency Act, 1923,— Amendment of Act X of 1923

(a) to section 2 after the words "in this behalf" the following shall be added, namely —

"and

'gold bullion' includes gold coin",

(b) in clause (a) of section 11, the words 'or in gold coin which is legal tender under the Indian Coinage Act, 1906 ' shall be omitted,

(c) in section 13—

(i) the words "for gold coin which is not legal tender under the Indian Coinage Act, 1906 or ' shall be omitted; and

(ii) for the figures "11 30016" the figures ' 8 47512" shall be substituted;

(d) In section 18—

(i) in sub section (1), the word sovereigns, half sovereigns" and the words "coin and" shall be omitted, and

(ii) in clause (a) of sub section (3), for the figures "11 30016" the figures "8 47512" shall be substituted;

(*e*) in section 19—

(i) in sub-section (*3*), the words "sovereigns, half-sovereigns" shall be omitted, and, in the *Explanation*, after the word "sub-section," the following words and figures shall be inserted, namely :—

"gold bullion shall be reckoned at the rate of one rupee for 8·47512 grains troy of fine gold, and" ; and

(ii) in sub-section (*5*), the words "coin or" and the word "coin", where it occurs for the second time, shall be omitted.

Obligation upon Government to purchase gold bullion tendered for sale.

4. Any person who offers for sale to the Governor General in Council at the office of the Master of the Mint, Bombay, or at any other place notified in this behalf by the Governor General in Council in the Gazette of India, gold in the form of bars containing not less than forty tolas of fine gold shall, subject to such conditions[1] as the Governor General in Council may, by notification in the Gazette of India, prescribe, be entitled to receive payment for the same at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold.

Obligation upon Government to sell gold or sterling.

5. (*1*) The Governor General in Council shall sell, to any person who makes a demand in that behalf at the office of the Controller of the Currency, Calcutta, or of the Deputy Controller of the Currency, Bombay, and pays the purchase price in legal tender currency, gold for delivery at the Bombay Mint at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold or, at the option of the Controller or the Deputy Controller, as the case may be, sterling for immediate delivery in London at an equivalent rate :

Provided that no person shall be entitled to demand an amount of gold or sterling of less value than that of 1,065 tolas of fine gold.

(*2*) For the purpose of determining the equivalent rate applicable to the sale of sterling under this section, twenty-one rupees, three annas and ten pies shall be deemed to be equivalent to such sum in sterling as is required to purchase one tola of fine gold in London at the rate at which the Bank of England is bound by law to give sterling in exchange for gold, after deduction therefrom of an amount representing the normal cost per tola of transferring gold bullion in bulk from Bombay to London, including interest on its value during transit.

(*3*) The Governor General in Council shall, from time to time, determine the equivalent rate[2] in accordance with the provisions of sub-section (*2*), and shall notify the rate so determined in the Gazette of India.

[1]For Notification prescribing such conditions as applicable in the case of the Mint at Bombay, *see* Notification No. 1229-F., dated 1st April 1927, Gazette of India, 1927, Pt. I. p. 392.

For modification of the form in which gold can be presented for the purposes of the foregoing Notification and the conditions governing such modification, *see* Notification No. D.-1229-1/2-F., dated 1st April, 1927, *ibid.*

[2] For such rate, *see* Notification No. D.-1229 (*a*)-F., dated 1st April 1927, *ibid.*

ACT No. V of 1927.[1]

[*30th March, 1927.*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Tariff Act, 1894, the Indian Stamp Act, 1899, and the Indian Paper Currency Act, 1923, and to fix rates of income-tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Tariff Act, 1894, the Indian Stamp Act, 1899, and the Indian Paper Currency Act, 1923, and to fix rates of income-tax; It is hereby enacted as follows:— [of 1898. II of 94. of 1899. of 1923.]

Short title, extent and duration.

1. (*1*) This Act may be called the Indian Finance Act, 1927.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

(*3*) Sections 2 and 3 shall remain in force only up to the 31st day of March, 1928.

Fixation of salt duty

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1927, they imposed such duty at the rate of one rupee and four annas per maund of eighty two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section. [I of 1882.]

Postal rates

3. With effect from the 1st day of April, 1927, the schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act [of 1898.]

Amendment of Act VIII of 1894

4. With effect from the 1st day of March, 1927, the following amendments shall be made in the Indian Tariff Act, 1894, namely:— [II of 94.]

(*1*) In the Second Schedule to that Act there shall be made the amendments specified in Part I of the Second Schedule to this Act

(*2*) In the Third Schedule to that Act there shall be made the amendment specified in Part II of the Second Schedule to this Act

[1] For Statement of Objects and Reasons, see Gazette of India, 1927, Pt. V, p. [illegible]

Amendment of Act II of 1899.

5. With effect from the 1st day of July, 1927, the following amendments shall be made in the Indian Stamp Act, 1899, namely:— II of 18

(*1*) In section 3—

(*a*) in clause (*b*), the word "cheque" shall be omitted, and after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted; and

(*b*) in clause (*c*), the word "cheque" shall be omitted.

(*2*) In clause (*b*) of section 11, the word "cheques" shall be omitted.

(*3*) In sub-section (*1*) of section 18, the word "cheque" shall be omitted.

(*4*) In section 19, after the words "bill of exchange", where they first occur, the words "payable otherwise than on demand" shall be inserted, and the word "cheque", in both places where it occurs, shall be omitted.

(*5*) In section 47, for the words "promissory note or cheque" the words "or promissory note" shall be substituted, and for the words "note or cheque", wherever they occur thereafter, the words "or note" shall be substituted.

(*6*) In clause (*c*) of section 49,—

(*a*) the word "cheques" shall be omitted, and after the words "bills of exchange" the words "payable otherwise than on demand" shall be inserted;

(*b*) the words "or cheque", wherever they occur, shall be omitted;

(*c*) the word "cheque", wherever it occurs elsewhere, shall be omitted; and

(*d*) for the words "any bill of exchange", where they occur for the first time in sub-clauses (*1*) and (*3*), the words "any such bill of exchange" shall be substituted.

(*7*) In clause (*a*) of sub-section (*1*) of section 62, the word "cheque" shall be omitted, and after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted.

(*8*) In section 67, after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted.

(*9*) In article No. 13 of Schedule I, the word, figure and brackets "and (3)" shall be omitted, and the letter, brackets and words "(*a*) where payable on demand", together with the entry "one anna" in the second column against those words, shall be omitted.

(*10*) Article No. 21 of Schedule I shall be omitted.

Amendment of Act X of 1923.

6. In sub-section (*7*) of section 19 of the Indian Paper Currency Act, 1923, for the figures "1927" the figures "1928" shall be substituted. X of 19

7. (1) Income-tax for the year beginning on the 1st day of April, 1927, shall be charged at the rates specified in Part I of the Third Schedule. Income-tax and super-tax.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1927, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Third Schedule. of 1922.

(3) For the purposes of the Third Schedule, "total income" means total income as determined, for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. of 1922.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 3.]

"THE FIRST SCHEDULE

INLAND POSTAGE RATES.

[See section 7.]

Letters.	
For a weight not exceeding two and a half tolas . .	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	One anna.
Postcards.	
Single	Half an anna.
Reply	One anna.
Book, Pattern and Sample Packets.	
For every five tolas or fraction thereof .	Half an anna.
Registered Newspapers.	
For a weight not exceeding eight tolas . . .	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.
Parcels.	
For a weight not exceeding twenty tolas . . .	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas."

SCHEDULE II.

[*See section 4.*]

PART I.

Amendments to the Second Schedule to the Indian Tariff Act, 1894.

(1) (*a*) For Item No. 10-A the following Item shall be substituted, namely :—

"10-A | RUBBER STAMPS, rubber seeds and raw rubber."

(*b*) In Item No. 76, for the words "excluding oil-seeds imported into British India by sea from the territories of any Prince or Chief in India (*see* No. 6)" the words "*not otherwise specified*" shall be substituted.

(2) For Item No. 36 the following Item shall be substituted, namely :—

			Rs. A.
"36	TOBACCO, unmanufactured	Pound .	1 8"

(3) (*a*) After Item No. 42 the following heading and Item shall be inserted, namely :—

"CARRIAGES AND CARTS.

42-A	MOTOR CARS, motor cycles, and motor scooters, and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof: provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in No. 87 shall be dutiable at the rate of duty specified for such articles.	*Ad valorem* .	20 per cent."

(*b*) In Item No. 87, for the figures "127" the figures and letter "42-A" shall be substituted.

(*c*) In Item No. 115, for the words and figures "Nos. 53 and 139" the word and figures "No. 53" shall be substituted.

(*d*) Items Nos. 127 and 139 shall be omitted.

PART II.

Amendment to the Third Schedule to the Indian Tariff Act, 1894.

Item No. 5 and the heading thereto shall be omitted.

SCHEDULE III.

[See section 7.]

PART I.

Rates of Income-tax.

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is less than Rs 2,000	*Nil*
(2) When the total income is Rs 2,000 or upwards, but is less than Rs 5,000 .	Five pies in the rupee.
(3) When the total income is Rs 5,000 or upwards, but is less than Rs 10,000 . .	Six pies in the rupee.
(4) When the total income is Rs 10,000 or upwards, but is less than Rs 20,000 . .	Nine pies in the rupee.
(5) When the total income is Rs 20,000 or upwards, but is less than Rs 30,000 . .	One anna in the rupee
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs 40,000 . .	One anna and three pies in the rupee
(7) When the total income is Rs. 40,000 or upwards	One anna and six pies in the rupee.
B. In the case of every company and registered firm, whatever its total income . . .	One anna and six pies in the rupee

PART II.

Rates of Super-tax

	Rate.
In respect of the excess over fifty thousand rupees of total income :—	
(1) in the case of every company	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty five thousand rupees of the excess	*Nil.*
(ii) for every rupee of the next twenty five thousand rupees of such excess . .	One anna in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess	One anna in the rupee.

SCHEDULE II.

[*See section 4.*]

PART I.

Amendments to the Second Schedule to the Indian Tariff Act, 1894.

(1) (*a*) For Item No. 10-A the following Item shall be substituted, namely :—

"10-A | RUBBER STAMPS, rubber seeds and raw rubber."

(*b*) In Item No. 76, for the words "excluding oil-seeds imported into British India by sea from the territories of any Prince or Chief in India (*see* No. 6)" the words "not otherwise specified" shall be substituted.

(2) For Item No. 36 the following Item shall be substituted, namely :—

			Rs. A.
"36	TOBACCO, unmanufactured	Pound .	1 8"

(3) (*a*) After Item No. 42 the following heading and Item shall be inserted, namely :—

"CARRIAGES AND CARTS.

42-A	MOTOR CARS, motor cycles, and motor scooters, and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof: provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in No. 87 shall be dutiable at the rate of duty specified for such articles.	*Ad valorem* .	20 per cent."

(*b*) In Item No. 87, for the figures "127" the figures and letter "42-A" shall be substituted.

(*c*) In Item No. 115, for the words and figures "Nos. 53 and 139" the word and figures "No. 53" shall be substituted.

(*d*) Items Nos. 127 and 139 shall be omitted.

PART II.

Amendment to the Third Schedule to the Indian Tariff Act, 1894.

Item No. 5 and the heading thereto shall be omitted.

SCHEDULE III.

[*See section 7.*]

Part I.

Rates of Income-tax.

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is less than Rs 2,000	*Nil*
(2) When the total income is Rs 2,000 or upwards, but is less than Rs 5,000	Five pies in the rupee.
(3) When the total income is Rs 5,000 or upwards, but is less than Rs 10,000	Six pies in the rupee
(4) When the total income is Rs 10,000 or upwards, but is less than Rs 20,000	Nine pies in the rupee.
(5) When the total income is Rs 20,000 or upwards, but is less than Rs 30,000	One anna in the rupee
(6) When the total income is Rs 30,000 or upwards, but is less than Rs 40,000	One anna and three pies in the rupee
(7) When the total income is Rs, 40,000 or upwards	One anna and six pies in the rupee.
B In the case of every company and registered firm, whatever its total income	One anna and six pies in the rupee

Part II.

Rates of Super-tax

	Rate.
In respect of the excess over fifty thousand rupees of total income :—	
(1) in the case of every company	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty-five thousand rupees of the excess	*Nil.*
(ii) for every rupee of the next twenty five thousand rupees of such excess	One anna in the rupee
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess	One anna in the rupee.

	Rate.
In respect of the excess over fifty thousand rupees of total income :—*contd.*	
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(*i*) for every rupee of the second fifty thousand rupees of such excess . .	One and a half annas in the rupee.
(*ii*) for every rupee of the next fifty thousand rupees of such excess	Two annas in the rupee.
(*iii*) for every rupee of the next fifty thousand rupees of such excess	Two and a half annas in the rupee.
(*iv*) for every rupee of the next fifty thousand rupees of such excess	Three annas in the rupee.
(*v*) for every rupee of the next fifty thousand rupees of such excess	Three and a half annas in the rupee.
(*vi*) for every rupee of the next fifty thousand rupees of such excess	Four annas in the rupee.
(*vii*) for every rupee of the next fifty thousand rupees of such excess	Four and a half annas in the rupee.
(*viii*) for every rupee of the next fifty thousand rupees of such excess . .	Five annas in the rupee.
(*ix*) for every rupee of the next fifty thousand rupees of such excess	Five and a half annas in the rupee.
(*x*) for every rupee of the remainder of the excess	Six annas in the rupee.

ACT No. VI OF 1927.[1]

[*3rd April, 1927.*]

An Act further to amend the Madras Salt Act, 1889, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Salt Act, 1889, for the purpose hereinafter appearing; It is hereby enacted as follows :— Mad. Act IV of 1889.

Short title. **1.** This Act may be called the Madras Salt (Amendment) Act, 1927.

Amendment of section 43, Mad. Act IV of 1889. **2.** In sub-clause (*4*) of clause B of section 43 of the Madras Salt Act, 1889, for the words "five per centum" the words "such percentage as the Central Board of Revenue may fix" shall be substituted. Mad. Act IV of 1889.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 48.

ACT No VII OF 1927 [1]

[*3rd April, 1927*]

An Act further to amend the Provident Funds Act, 1925, for a certain purpose.

XIX of 1925. WHEREAS it is expedient further to amend the Provident Funds Act, 1925, for the purpose hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Provident Funds (Amendment) Act, 1927 Short title

XIX of 1925 2 In clause (*d*) of section 2 of the Provident Funds Act, 1925, for the words 'for teachers in educational institutions the following words shall be substituted, namely — Amendment of section 2 Act XIX of 1925

of persons employed in educational institutions or employed by bodies existing solely for educational purposes '

ACT No VIII OF 1927 [2]

[*3rd April, 1927*]

An Act further to amend the Sea Customs Act, 1878, for a certain purpose

VIII of 1878 *WHEREAS it is expedient further to amend the Sea Customs Act,* 1878 for the purpose hereinafter appearing It is hereby enacted as follows —

1. This Act may be called the Sea Customs (Amendment) Act, 1927 Short title

VIII of 1878. 2 After section 34 of the Sea Customs Act 1878 (hereinafter referred to as the said Act), the following section shall be inserted namely — Insertion of new section 34A in Act VIII of 1878

' 34A Where the Customs collector is satisfied that any goods on which duties are levied on quantity and not on value, and which are of a kind to which the Governor General in Council has, by notification in the Gazette of India, declared that the provisions of this section shall apply have before delivery of the bill of entry deteriorated to the extent of more than one tenth of their value he may allow an abatement of duty proportionate to the extent of such deterioration " Abatement of duty on goods on which duty is levied on quantity

3. In section 35 of the said Act for the word "damage" the words "any deterioration" shall be substituted, and after the words ' been, or" the words "save as provided by section 34A" shall be inserted Amendment of section 35, Act VIII of 1878.

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[1] For Statement of Objects and Reasons see Gazette of India 1927 Pt. V, p 4[illegible]

[2] For Statement of Objects and Reasons see Gazette of India 1927, Pt V, p 67

ACT No. IX OF 1927.[1]

[*3rd April, 1927.*]

An Act further to amend the Indian Limitation Act, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows :— IX of 1908.

Short title and commencement. **1.** (*1*) This Act may be called the Indian Limitation (Second Amendment) Act, 1927.

(*2*) It shall come into force on the 1st day of January, 1928.

Amendment of Article 182, Schedule I, Act IX of 1908. **2.** In the Third Division of the First Schedule to the Indian Limitation Act, 1908, in Article No. 182— IX of 1908.

(*a*) in clause 5 of the entry in the third column, for the word "applying" the words "the final order passed on an application made" shall be substituted; and

(*b*) for clause 6 of the same entry the following shall be substituted, namely :—

"6. (in respect of any amount, recovered by execution of the decree or order, which the decree-holder has been directed to refund by a decree passed in a suit for such refund) the date of such last-mentioned decree or, in the case of an appeal therefrom, the date of the final decree of the Appellate Court or of the withdrawal of the appeal."

ACT No. X OF 1927.[2]

[*4th April, 1927.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

And whereas it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed;

It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Repealing and Amending Act, 1927.

Amendment of certain enactments. **2.** The enactments specified in the First Schedule are hereby amended to the the extent and in the manner mentioned in the fourth column thereof.

3. [*Repeal of certain enactments.*] *Repealed by the Repealing Act, 1927* (*12 of 1927*).

4. [*Savings.*] *Repealed by the Repealing Act, 1927* (*12 of 1927*).

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 13.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 66.

THE FIRST SCHEDULE.

AMENDMENTS

(See section 2.)

Year.	No	Short title.	Amendments
1856	XI	The European Deserters Act, 1856	(1) In the title, after the word "Soldiers" the words "and Airmen" shall be inserted, and after the word "Land" the words "and Air" shall be inserted (2) In the Preamble, after the word "Land" the words "and Air" shall be inserted (3) In sections 1, 5 and 6, for the words "or soldier", wherever they occur, the words "soldier or airman" shall be substituted (4) In section 7, for the words "military station" the words "military or air-force station, as the case may be" shall be substituted.
1860	XLV	The Indian Penal Code .	(1) In section 5, for the words "and soldiers" the words "soldiers or airmen" shall be substituted (2) [illegible] (3 [illegible] the words [illegible] the words "Navy and Air Force" shall be substituted. (4) In section 131— (i) for the words "or sailor", wherever they occur, the words "sailor or airman" shall be substituted; (ii) for the words "or Navy" the words "Navy or Air Force" shall be substituted; (iii) In the *Explanation*, for the words "and 'soldier'" the words "'soldier' and 'airman'" shall be substituted, and for the words and figures "Articles of War for the better government of Her Majesty's [illegible]

Year.	No.	Short title.	Amendments.
1860	XLV	The Indian Penal Code—*contd.*	(5) In sections 132, 133, 134, 135, 136, 138 and 505— (i) for the words "or sailor", wherever they occur, the words "sailor or airman" shall be substituted; (ii) for the words "or Navy", wherever they occur, the words "Navy or Air Force" shall be substituted. (6) In section 137, for the words "or Navy" the words "Navy or Air Force" shall be substituted. (7) In section 139, for the words "any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy" the words and figures "the Army Act, the Indian Army Act, 1911, the Naval Discipline Act or the Air Force Act" shall be substituted. (8) In section 140— (i) after the word "soldier", wherever it occurs, the words "sailor or airman" shall be inserted; (ii) for the words "or Naval" the words "Naval or Air" shall be substituted.
1872	I	The Indian Evidence Act, 1872.	(1) In section 1, after the words "Army Act" the words "or the Air Force Act" shall be inserted. (2) In sub-section (3) of section 57, for the words "or Navy" the words "Navy or Air Force" shall be substituted.
1873	X	The Indian Oaths Act, 1873.	In clause (*b*) of section 4, after the word "military" the words "or air-force" shall be inserted.
1877	I	The Specific Relief Act, 1877.	In section 45, clause (*f*), the word "or" shall be omitted, and after the word "Bengal" the words "or on the Governor of Burma in Council" shall be added.

Year.	No.	Short title	Amendments
1881	XI	The Municipal Taxation Act, 1881	(1) In the Preamble, after the word "military" the words "or air force" shall be inserted (2) In clause (*a*) of section 3— (i) for the words and figures "Army Discipline and Regulation Act, 1879, or the Indian Articles of War" the words "Army Act, the Indian Army Act, 1911, or the Air Force Act" shall be substituted (ii) after the word "military" the words "or air force" shall be inserted (3) In section 6 after the word "military" the words "or air force" shall be inserted
1882	IV	The Transfer of Property Act, 1882	In clause (*g*) of section 6 after the word "military" the words "air force" shall be inserted
1884	IV	The Indian Explosives Act, 1884	In clause (*b*) of section 14 after the word "sailor" the word "airman" shall be inserted
1890	IX	The Indian Railways Act, 1890	(1) In sub section (*5*) of section 59 after the word "sailor" the word "airman" shall be inserted (2) In section 79— (i) after the word "soldier", in both places where it occurs, the word "airman" shall be inserted; (ii) after the word "military" the words "or air force" shall be inserted
1898	V	The Code of Criminal Procedure, 1898	(1) In sub section (*1*) clause [illegible], of section 74, for the words "Army or Navy" the words "Army, Navy or Air Force" shall be substituted (2) In the second proviso to section 188, for the words and figures "the Foreign Jurisdiction and Extradition Act, 1879" the words and figures "the Indian Extradition Act, 1903" shall be substituted.

Year.	No.	Short title.	Amendments.
1898	V	The Code of Criminal Procedure, 1898—*contd.*	(3) In section 317— (i) in sub-section (*1*), after the word "Army" the words "or Air Force" shall be inserted; and (ii) in sub-section (*2*), for the word "military", in both places where it occurs, the word "official" shall be substituted. (4) In clause (*a*) of section 320, after the word "Army" the words "or Air Force" shall be inserted. (5) In sub-section (*1*) of section 549— (i) for the words "Army Act or" the words "Army Act and the Air Force Act and" shall be substituted; (ii) for the words "military law" the words "military or air-force law" shall be substituted; (iii) after the word and figures "section 41" the words and figures "or under the Air Force Act, section 41" shall be inserted; (iv) for the words "military station" the words "military or air-force station, as the case may be," shall be substituted. (6) In Schedule II— (i) in the entries in column 2 against sections 131, 133, 135, 136 and 138, for the words "or sailor" the words "sailor or airman," shall be substituted; (ii) in the entry in column 2 against section 140, after the word "soldier", in both places where it occurs, the words "sailor or airman" shall be inserted.
1899	II	The Indian Stamp Act, 1899.	In Article No. 53 of Schedule I— (i) in clause (*d*), for the words "or soldiers" the words "soldiers or airmen" shall be substituted, and for the words "Her Majesty's Army or Her Majesty's Indian Army" the words "His Majesty's military or air forces" shall be substituted;